



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
INSTALLATIONS, ENERGY AND ENVIRONMENT
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WASHINGTON DC 20310-0110

SAIE-IHP

APR 24 2018

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Infrastructure Additions to Privatized Utility Systems

1. This memorandum establishes policy for utility infrastructure improvements or additions on Army installations, where the utility system has been privatized. This policy supersedes the SAIE-IH memorandum on Army Policy for Real Property Capital Improvements to Privatized Utility Systems, dated 17 January 2007. This policy does not apply to repair or replacement of existing infrastructure, or improvements required for implementation of the Military Housing Privatization Initiative.
2. All utility system infrastructure improvements and additions associated with privatized utility systems are to be accomplished through use of the cognizant Utilities Privatization (UP) System Owner (SO), unless an exception has been granted in accordance with enclosed procedures. Military Construction (MILCON) funds shall be obligated to pay "lump sum" for connections or upgrades to an SO's infrastructure through a connection charge, pursuant to the terms of a Utilities Service Contract (USC) to the extent the necessary connections or upgrades are included in a Department of Defense Form 1391 (DD 1391) project description; see enclosed guidance.
3. To minimize long-term interest expenses to the Army, land holding commands are encouraged to use available Army operations and maintenance (O&M) funding, in amounts up to the applicable Minor Military Construction funding threshold, to pay for complete and useable utility infrastructure improvements for which there is a current fiscal year bonafide need. All utility improvements not listed in a DD 1391 that cost in excess of the Minor Construction funding limitation, must be amortized over the useful life of the improvement, or the remaining term of the SO's USC.
4. Commands will incorporate sustainable design and development features, appropriate energy and water security measures, and cybersecurity requirements into all UP projects. My point of contact for this action is Mr. Curt Wexel, PE, UP Program Manager, at telephone 703-545-2470, or by email curtis.t.wexel.civ@mail.mil.

2 Encls

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PAUL D. CRAMER
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(Installations, Housing and Partnerships)

SAIE-IHP

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DISTRIBUTION:

Deputy Assistant Chief of Staff for Installation Management

Deputy Commander, U.S. Army Materiel Command

Deputy Commander, U.S. Army Corps of Engineers

Deputy Commander, U.S. Army Contracting Command

Deputy Commander, U.S. Army Installation Management Command

Deputy Chief, Army Reserve

Deputy Director, U.S. Army National Guard

Director, Defense Logistics Agency Energy, Utility Services

Superintendent, Arlington National Cemetery

Exceptions to Use of UP System Owner (SO) for Infrastructure Additions

Since Army UP decisions are normally supported by open competitive evaluation of technical capability and Life-Cycle Cost Analysis (LCCA), it is presumed that privatized utility SO's services for similar work would also provide best value, unless a Business Case Analysis (BCA) of comparable rigor indicates otherwise; see DoD Instruction 7041.03. A Request for Exception must be submitted in writing through the UP Program Manager to DAIM-OD for approval and coordination with the UP Administrative Contracting Officer (ACO):

1. **Significant UP Scope Increase:** If the proposed infrastructure additions would increase the total UP contract cost by more than fifty percent, then an open competitive procurement is required.
2. **Non-Contiguous Utility Services:** For geographically isolated facilities, annexes, or other remote sites, if a BCA concludes that the additional utility infrastructure can operate more efficiently and cost-effectively without connection to the previously conveyed utility system. The BCA must identify a vehicle to provide long-term O&M and sustainment. The BCA must provide technical assessment and risk analysis, and a comparative LCCA with the following items:
 - a. Cost of construction
 - b. Long-term operating and maintenance costs
 - c. Long-term commodity costs (if affected)
3. **System Owner (SO) is Incapable:** If following negotiations, the ACO determines in writing that the SO cannot meet the government's required schedule at a fair and reasonable price, then another contractor may be utilized to construct the required utility infrastructure. The design and construction must be fully coordinated with and conform to the UP contractor's standards for integration with or interconnection to the privatized system, and must meet requirements of 10 U.S.C. §2688 for subsequent conveyance.
4. **Life-Cycle Best Value:** A high burden of proof is needed to support interim government ownership or interest in new utility assets following UP. The BCA must identify how the Army will provide interim O&M and sustainment of infrastructure not constructed and owned by the UP SO. Design coordination and conformance standards of the previous paragraph apply. The BCA must provide technical assessment and risk analysis, and a comparative LCCA with the following items (nominal cost as a percent of construction cost is shown parenthetically):
 - a. Cost of construction to the agreed standards of the SO
 - b. Design and construction coordination with SO (2%)
 - c. Inspections and acceptance by the government and the SO (3%)
 - d. Bonding as guarantee of acceptability to the SO (0.5%)
 - e. Real property title transfers (2%, but not less than \$10,000)
 - f. Interim operating and maintenance costs
 - g. Transfer of warranties
 - h. Contingency (5%)
 - i. Long-term commodity costs (if affected)

MILCON Guidance

1. For MILCON projects that require utility additions, improvements, and/or connections in order to be complete and useable, the original DD 1391 or any project resubmission will include the full scope and cost for that work, and will include language from one or both of the following templates to describe utility connections; adjusting verbiage as needed for single/multiple SO's or systems.
2. To obtain utility services from a privatized utility system, MILCON funds are to be provided to the SO through the UP Administrative Contracting Officer (ACO) as a connection charge. The ACO will negotiate a fair and reasonable price for the addition of the new infrastructure to the UP contract inventory and will modify the contract to add monthly charges for the SO to operate, maintain, and sustain such infrastructure for the term of the UP contract.

MILCON DD 1391 Language

Existing UP SO(s):

Utility connections are required to a privatized [*electric distribution, electric generation, natural gas, water, wastewater, central [heating and/or cooling]*] system(s). The Army intends to have the [respective] Utilities Privatization System Owner [*name(s) of System Owner optional*] make and own the necessary connections up to the facility service disconnect or other defined point of demarcation.

Potential Future UP SO(s): (for any utilities not already privatized)

Utility connections are required to [*electric distribution, electric generation, natural gas, water, wastewater, central [heating and/or cooling]*] system(s). In the event of a future Utilities Privatization (UP) action, the Army intends to have the [respective] UP System Owner make and own the necessary connections up to the facility disconnect or other defined point of demarcation.