

# **EXHIBIT 1**

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UNDER SECRETARY OF DEFENSE

1100 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1100

APR 20 2020

ACTION MEMO

COMPTROLLER

FOR: SECRETARY OF DEFENSE

DSD \_\_\_\_\_

FROM: Elaine McCusker, Acting Under Secretary of Defense (Comptroller)/CFO <sup>EM</sup>

SUBJECT: Adjustments to Funding Sources for Military Construction Projects Undertaken Pursuant to Section 2808 of Title 10, U.S. Code

Background

- On February 15, 2019, the President declared a national emergency in accordance with the National Emergencies Act and determined that the crisis at the southern border is a national emergency that requires the use of the armed forces. The President decided to continue this declaration of national emergency on February 13, 2020.
- This declaration made available 10 U.S.C. § 2808, which authorizes the Secretary of Defense, without regard to any other provision of law, to undertake military construction (MILCON) projects not otherwise authorized by law that are necessary to support the use of the armed forces in connection with the national emergency.
- On September 3, 2019, you determined that 11 border barrier projects are MILCON projects necessary to support use of the armed forces in connection with the national emergency requiring use of the armed forces, and decided to undertake those projects as authorized by Section 2808.
- Also on September 3, 2019, you directed that 127 MILCON projects, totaling \$3.6 billion, be deferred to fund the MILCON projects to be undertaken pursuant to Section 2808. Consistent with your direction:
  - Funding for deferred MILCON projects outside the United States has been provided to the Secretary of the Army for Section 2808 project execution (\$1.8 billion).
  - Funding for deferred MILCON projects in the United States (including U.S. territories) is currently on withhold from the Components (\$1.8 billion) and has not been provided to the Secretary of the Army, as the funds are not currently needed for obligation.

Funding Sources

- Of the \$1.8B of deferred MILCON projects in the United States (including U.S. territories), 22 projects in 17 States are scheduled for award in calendar year 2020 (based on January 2020 data). Releasing funding for these projects now will permit them to be undertaken in a timely manner, but will also require identification of additional projects to defer to ensure sufficient funds are available to execute the approved 2808 projects.
  - One Section 2808 deferred project (Replace Fuel Facilities at Klamath Falls, Oregon - \$2.5 million), with an award date of October 2020, is not recommended for release

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because its initial cancellation was withdrawn to undertake additional analysis that is ongoing.

- In conjunction with the Components, Comptroller staff reviewed MILCON projects authorized in fiscal year (FY) 2020 and based on January 2020 data identified 16 projects outside the United States that could be deferred to ensure sufficient funds are available for Section 2808 projects after releasing funding to execute some of the currently deferred projects. In conducting this review, Comptroller staff considered only projects outside the United States that are scheduled for award in FY 2021 or later, and did not consider any family housing, barracks, dormitory, or disaster response projects for deferral. ✓
- In addition to the funds associated with these projects, Comptroller staff identified amounts associated with MILCON projects that have been cancelled this FY for reasons not associated with the national emergency at the southern border, as well as excess MILCON planning and design funds.
  - With respect to the cancelled projects, the Department would not make any funds associated with such projects available until 14 days have elapsed after the date on which the notice to Congress required by Section 2853 of title 10, United States Code, was submitted. ✓
  - The Comptroller would manage the release of funds for currently deferred projects in a manner to ensure that at all times sufficient amounts are available to fund the previously-approved Section 2808 MILCON projects. ✓
- In total, we have identified \$545.526 million in unobligated MILCON funds that could be used in lieu of funding associated with 22 currently deferred projects.
- The memorandum at TAB A provides further direction regarding projects to be deferred to fund Section 2808 border barrier MILCON projects. Specifically, this memorandum:
  - Approves removing 22 previously deferred projects inside the 50 United States, totaling \$545.526 million, that are scheduled for award in calendar year 2020 from the deferred project list, thereby enabling the projects to be executed as soon as practicable; and
  - Directs that \$545.526 million from (1) two projects that have been cancelled for reasons not associated with border barrier MILCON; (2) the deferral of 16 projects outside the United States that are scheduled to award in FY 2021 or later; and (3) amounts excess to need for planning and design, be used as replacement sources to ensure adequate funding remains available for the current Section 2808 MILCON effort. ✓

RECOMMENDATION: Sign the memorandum at TAB A.

COORDINATION: OGC at TAB B

Attachment:  
As stated

**TAB**

**A**



SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

APR 27 2020

MEMORANDUM FOR ACTING UNDER SECRETARY OF DEFENSE  
(COMPTROLLER)/CHIEF FINANCIAL OFFICER

SUBJECT: Adjustments to Funding Sources for Military Construction Projects Undertaken  
Pursuant to Title 10, U.S. Code, Section 2808

On February 15, 2019, in accordance with the National Emergencies Act, the President declared that a national emergency exists at the southern border requiring the use of the Armed Forces. This declaration was continued on February 13, 2020. This declaration made available, among other statutes, 10 U.S.C. § 2808, which authorizes the Secretary of Defense, without regard to any other provision of law, to undertake military construction projects not otherwise authorized by law that are necessary to support the use of the Armed Forces in connection with the national emergency.

Based on analysis and advice from the Chairman of the Joint Chiefs of Staff and input from the Commander, U.S. Army Corps of Engineers, the Department of Homeland Security, and the Department of the Interior and pursuant to the authority granted to me in section 2808, I previously determined that 11 military construction projects along the international border with Mexico are necessary to support the use of the Armed Forces in connection with the national emergency.

To undertake these section 2808 border barrier military construction projects, I approved the use of \$3.6 billion of unobligated military construction funds. I directed that you make \$1.8 billion in funding from projects that are outside the United State immediately available to the Secretary of the Army for section 2808 execution and further directed you to make the remaining \$1.8 billion available from projects located in the United States to the Secretary of the Army once needed for obligation. To enable the execution of certain projects scheduled for award in calendar year 2020, I direct you to release funding associated with 22 currently deferred projects within the United States totaling \$545.526 million (detailed in the attachment). I also direct that \$545.526 million from sources detailed in the attachment be used to ensure adequate funding remains available for the current section 2808 military construction effort. This funding should be provided to the Secretary of the Army when it is needed for obligation.

*Mark T. Esper*

Attachment:  
As stated

cc:  
Chief Management Officer of the Department of Defense  
Secretaries of the Military Departments



OSD004274-20/CMD005165-20

Chairman of the Joint Chiefs of Staff  
Under Secretaries of Defense  
Chief of the National Guard Bureau  
Commanders of the Combatant Commands  
General Counsel of the Department of Defense  
Director of Cost Assessment and Program Evaluation  
Inspector General of the Department of Defense  
Director of Operational Test and Evaluation  
Chief Information Officer of the Department of Defense  
Assistant Secretary of Defense for Legislative Affairs  
Assistant to the Secretary of Defense for Public Affairs  
Director of Net Assessment  
Directors of Defense Agencies  
Directors of DoD Field Activities  
Office of the Director of National Intelligence

Projects Removed from Section 2808 MILCON Deferred Project List (\$ in thousands)

State/Country Title	Location Title	Revised Projected Award Date	Line Item Title	Fiscal Year Encumbrment	Amount
ALABAMA	Anniston Army Depot	August 2020	Weapon Maintenance Shop	2019	5,200
ALASKA	Eielson AFB	October 2020	Eielson AFB Improved CATM Range	2019	19,000
ARIZONA	Fort Huachuca	May 2020	Ground Transport Equipment Building	2018	30,000
COLORADO	Peterson AFB	August 2020	Space Control Facility	2018	8,000
HAWAII	Joint Base Pearl Harbor-Hickam	September 2020	Consolidated Training Facility	2018	5,500
HAWAII	Kaneohe Bay	May 2020	Security Improvements Mokapu Gate	2018	28,492
INDIANA	Crane Army Ammunition Plant	July 2020	Ralkcar Holding Area	2019	18,000
KENTUCKY	Fort Campbell, Kentucky	July 2020	Fl Campbell Middle School	2019	62,634
LOUISIANA	Joint Reserve Base New Orleans	November 2020	NORTHCOM - Construct Alert Apron	2019	15,000
LOUISIANA	Joint Reserve Base New Orleans	November 2020	NORTHCOM - Construct Alert Facilities	2019	24,000
MARYLAND	Joint Base Andrews	August 2020	PAR Relocates Haz Cargo Pad and EOD Range	2019	37,000
MARYLAND	Joint Base Andrews	July 2020	Child Development Center	2019	13,000
MISSISSIPPI	Jackson IAP	September 2020	Construct Small Arms Range	2018	8,000
NEW MEXICO	White Sands	November 2020	Information Systems Facility	2019	40,000
NEW YORK	U.S. Military Academy	August 2020	Engineering Center	2019	95,000
NEW YORK	U.S. Military Academy	August 2020	Parking Structure	2019	85,000
NORTH CAROLINA	Camp Lejeune, North Carolina	December 2020	Ambulatory Care Center Addition/Alteration	2018	15,300
NORTH CAROLINA	Seymour Johnson AFB	July 2020	KC-46A ADAL for All Mission Storage	2018	6,400
OKLAHOMA	Tulsa Iap	November 2020	Construct Small Arms Range	2018	8,000
OREGON	Klamath Falls IAP	August 2020	Construct Indoor Range	2018	8,000
UTAH	Hill AFB	July 2020	UTTR Consolidated Mission Control Center	2018	26,000
VIRGINIA	Joint Base Langley-Eustis	August 2020	Construct Cyber Ops Facility	2019	10,000
<b>Grand Total</b>					<b>646,636</b>

New Deferred Projects & Replacement Sources for Section 2808 MILCON (\$ in thousands)

State/Country Title	Location Title	Revised Projected Award Date	Line Item Title	Fiscal Year Encumbrment	Amount
TEXAS	Joint Base San Antonio	Cancelled**	T-XA DAL Ground Based Training System Sim	2020	9,300
BAHRAIN ISLAND	SW Asia	February 2021	Electrical System Upgrade	2020	53,380
GERMANY	Gemersheim	July 2021	EDI: Logistics Distribution Center Annex	2020	48,000
GUANTANAMO BAY, CUBA	Guantanamo Bay Naval Station	October 2020	OCO: Communications Facility	2020	22,000
GUANTANAMO BAY, CUBA	Guantanamo Bay Naval Station	October 2020	OCO: Detention Legal Office and Comms Ctr	2020	11,800
JAPAN	Yokota AB	March 2021	Pacific East District Superintendent's Office	2020	20,105
JORDAN	Azraq	February 2021	Air Traffic Control Tower	2020	24,000
JORDAN	Azraq	February 2021	Munitions Storage Area	2020	42,000
KWAZALEIN	Kwajalein Atoll, Kwajalein	February 2021	Air Traffic Control Terminal	2020	40,000
NORWAY	Rygge	Cancelled**	EDI-Construct Taxiway	2019	13,800
SPAIN	Rota	March 2021	EDI: Joint Mobility Center	2020	48,840
SPAIN	Rota	January 2021	EDI: Small Craft Berthing Facility	2020	12,770
SPAIN	Rota	January 2021	EDI: In-Transit Munitions Facility	2020	9,980
SPAIN	Moron	December 2020	EDI-Hot Cargo Pad	2020	8,500
WORLDWIDE UNSPECIFIED	Unspecified Worldwide Locations	November 2021	EDI: Bulk Fuel Storage	2020	38,000
WORLDWIDE UNSPECIFIED	Unspecified Worldwide Locations	July 2021	EDI: Information Systems Facility	2020	6,200
WORLDWIDE UNSPECIFIED	Unspecified Worldwide Locations	December 2020	EDI-Hot Cargo Pad	2020	29,000
WORLDWIDE UNSPECIFIED	Unspecified Worldwide Locations	November 2020	EDI-ECAOS DABS/FEV EMEDS Storage	2020	107,000
WORLDWIDE UNSPECIFIED	Unspecified Worldwide Locations		Planning & Design	2020	6,890
<b>Grand Total</b>					<b>646,636</b>

\*Due to necessary scope and cost increases the project was cancelled and a replacement project is included in the FY21 budget request.

\*\*A compound has become available on the south side of the Air Station that provides the operational capability that would have been achieved through this project.

Projects Remaining on Section 2808 MILCON Deferred Project List (\$ in thousands)

State/Country Title	Location Title	Revised Projected Award Date	Line Item Title	Fiscal Year Encumbrment	Amount
ALASKA	Eielson AFB	Cancelled**	Repair Central Heat/Power Plant Boiler PH 4	2018	41,000
ALASKA	Eielson AFB	Cancelled**	Repair Central Heat & Power Plant Boiler Ph3	2018	34,400
ALASKA	Fort Greely	January 2022	Missile Field #1 Expansion	2019	8,000
CALIFORNIA	Channel Islands ANGS	March 2021	Construct C-130J Flight Simulator Facility	2019	8,000
FLORIDA	Tyndall AFB	March 2021	Fire/Crash Rescue Station	2018	17,000
INDIANA	Hulman Regional Airport	March 2021	Construct Small Arms Range	2018	8,000
MARYLAND	Fort Meade	August 2021	Cantonment Area Roads	2019	18,500
NEW MEXICO	Holloman AFB	July 2022	MQ-9 FTU Ops Facility	2019	85,000
NORTH CAROLINA	Camp Lejeune, North Carolina	July 2021	2nd Radio BN Complex, Phase 2	2019	25,890
NORTH CAROLINA	Fort Bragg	Previously cancelled	Bulner Elementary School Replacement	2016	32,944
OREGON	Klamath Falls IAP	October 2020	Replace Fuel Facilities	2018	2,500
SOUTH CAROLINA	Beaufort	July 2021	Laurel Bay Fire Station Replacement	2019	10,750
TEXAS	Fort Bliss	Not authorized**	Defense Access Roads	2018	20,000
TEXAS	Joint Base San Antonio	March 2021	Camp Bullis Dining Facility	2018	18,500
UTAH	Hill AFB	February 2021	Composite Aircraft Antenna Calibration Fac	2019	26,000
VIRGINIA	Norfolk	July 2021	Replace Hazardous Materials Warehouse	2018	18,500
VIRGINIA	Pentagon	Previously cancelled	Pentagon Metro Entrance Facility	2017	12,111
VIRGINIA	Portsmouth	July 2021	Replace Hazardous Materials Warehouse	2018	22,500
VIRGINIA	Portsmouth	June 2021	Ships Maintenance Facility	2019	28,120
WASHINGTON	Bangor	February 2021	Pier and Maintenance Facility	2019	88,980
WISCONSIN	Truax Field	May 2021	Construct Small Arms Range	2018	8,000
<b>Grand Total</b>					<b>638,636</b>

\*The first two phases have been completed. Phases 3 and 4 of this military construction effort were cancelled in order to pursue a more economical solution with a higher reliability rate.  
 \*\*Congress has not provided project authorization for this proposed project.

All revised projected award dates are as of January 2020.

**TAB**


**B**



**OFFICE OF THE UNDER SECRETARY OF DEFENSE (COMPTROLLER)  
MILITARY PERSONNEL AND CONSTRUCTION DIRECTORATE**

**SUBJECT: Adjustments to Funding Sources for Military Constructions Projects  
Undertaken Pursuant to Section 2808 of Title 10, U.S. Code**

DoD GC

  
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4/17/20