

MISSILE DEFENSE AGENCY

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NAU-DFW MOU (10-9-07).*



*Mandatory paragraphs  
for Model MOU compliance:*

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**Memorandum of Understanding  
Between  
U.S. Army Corps of Engineers  
Europe District  
and  
Missile Defense Agency  
Worldwide Deployment  
Program Management Office**

*ENCL*

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**1.0 PURPOSE**

The purpose of this Memorandum of Understanding (MOU) is to establish organizational relationships, responsibilities, and activities between the U.S. Army Corps of Engineers (USACE), Europe District (CENAU) and the Missile Defense Agency (MDA) Ballistic Missile Defense System (BMDS) World Wide Deployment Program Management Office (PMO) (MDA/DFW). This agreement describes the partnership for managing and executing the BMDS site activation in the Europe District Area of Responsibility (AOR). The objective of this partnership is to deliver quality facilities within program schedule and budget constraints in order to provide the United States, its friends and allies with an effective BMDS. This MOU is prepared in accordance with the Memorandum of Agreement (MOA) between the MDA and USACE dated 16 May 2007.

**2.0 CONCEPT AND SCOPE**

**2.1 Basic Concept**

The basic concept of this MOU is to formulate a partnership process to work together as a team while drawing on the best capabilities of each Organization to support planning, design, execution of construction, testing and transfer of facilities to the end user in the Europe AOR. CENAU will partner with the MDA/DFW on behalf of USACE to provide a wide range of technical support and engineering services including but not limited to master planning, studies, design, cost administration, program and project management, contract acquisition & administration, real estate, resource and financial management, construction supervision and administration, and O&M support.

**2.2 Full Partners**

MDA/DFW and CENAU will serve as full partners related to site and facility planning, design, construction and site activation in all aspects relating to assigned mission areas. The areas of responsibilities and relationships presented herein provide the concept under which the European sites activation will be executed.

## 3.0 SUPPORT STRUCTURE

### 3.1 Operational Control

The MDA/DFW Site Director will establish and maintain day-to-day operational control of each site. The missions, personnel requirements, and scope of each resident office are based on services provided to MDA. CENAU will staff the Area office and Resident office teams to meet MDA mission requirements. The Area Office and Resident Office team members will operate day-to-day as integrated teams, while retaining their respective parent headquarters administrative reporting linkages and operations within normal service policies. However, the MDA/DFW Site Director will be the guest rater under National Security Personnel System for the Deputy Site Activation Construction Management Office.

### 3.2 Administrative Contracting Officer (ACO)

When the CENAU is not the procuring contracting officer (PCO), the MDA PCO will delegate to the Europe District Chief of Contracting an appointment of Administrative Contracting Officer in accordance with FAR part 42 for MDA construction contracts administered by the Europe BMDS Construction Management Office (CMO). The ACO appointment will authorize a re-delegation of authority to qualified personnel, which may include the Area Engineer. The specific ACO authorities delegated in accordance with FAR part 42 are outlined in Appendix 2 to this MOU.

### 3.3 Europe BMDS Construction Management Office (CMO)

#### 3.3.1 Joint Europe BMDS CMO

CENAU and MDA/DFW will establish a joint Europe BMDS CMO (Appendix 1) with Resident Engineer field offices as needed for each Europe AOR project site in direct support of the MDA/DFW site activation team for administration and implementation of MDA construction programs and site activation. CENAU will provide CMO leadership through an Area Engineer, who will be in direct support of the CMO and will serve as the Deputy Site Director for Construction to the MDA/DFW Site Director. The ACO will be delegated authorities necessary to assist the PCO in the daily governance of the site facility construction contract. The CENAU Resident Engineer Office(s) will be staffed in full coordination with MDA/DFW based on mission requirements.

#### 3.3.2 Resident Engineer Office(s)

The Resident Engineer Office(s) will be in direct support of the Area Engineer and will execute missions of environmental, siting, community impact, planning, site activation, facilities programming, construction and contract management, facility design, anti-terrorism/force protection, physical and electronic security, and final inspections, testing, close out, transfer of accepted facilities to the using agency, and O&M support. The Resident Engineer will be in direct support of the Construction Management Office. A Resident Engineer for each site will be selected in full coordination with MDA/DFW. The Resident Engineer will be the primary point of contact (POC) for facilities construction tasks assigned to CENAU at each site.

### **3.4 CENAU BMDS District Program Office**

#### **3.4.1 Establishment and Coordination**

CENAU will establish a BMDS District Program Office located in Wiesbaden Germany, and in full coordination with MDA/DFW. CENAU will assign a Program Manager with responsibility for overall coordination and life-cycle project management of projects within the Europe AOR. This office will be funded on a reimbursable basis as required to support program needs.

#### **3.4.2 Support**

The BMDS District Program Office will support the CMO by providing program and project management, engineering expertise, legal counsel, contracting support, construction support and administrative support as required. The BMDS District Program Office will be responsible for enabling the Area and Resident Offices to support the BMDS mission effectively and for coordination with other Corps of Engineers activities.

#### **3.4.3 Responsibilities**

The BMDS District Program Office will support design/pre-design efforts with engineering review of facility requirements, review of facility design documents, geotechnical and environmental surveys and investigations, cost estimating, contracting and legal counsel review, and Bidability, Constructability, Operability, & Environmental (BCOE) review as required. This office will be responsible for coordination of any CENAU designated designs and design during construction.

## **4.0 SUPPORT COORDINATION**

### **4.1 CMO Responsibilities**

The CMO is responsible for coordinating and facilitating communications both internally within the CMO and externally to supporting intra-agency offices, local installations, regional Combatant Commanders, Host Nation Representatives, and other MDA Site Activation Offices in the region.

### **4.2 Deputy Site Director/Area Engineer**

The CENAU POC for site activities is the Deputy Site Director/Area Engineer for the Europe BMDS CMO. The Deputy Site Director/Area Engineer is responsible for coordinating the overall functional engineering and construction services on all sites and is responsible for reporting to the MDA/DFW Site Director and to command and senior executive leaders within the USACE.

### **4.3 MDA Site Director**

MDA/DFW will provide a Site Director with overall responsibility for day-to-day activities on site and is responsible for reporting to outside agencies/offices, command and executive leadership within MDA.

## 5.0 RESPONSIBILITIES OF PARTIES

### 5.1 Responsibilities of MDA/DFW

1. Ensure that rights of entry or agreements will be in place allowing the construction and operation of the facilities and that all necessary agreements to include the Status of Forces Agreement (SOFA) will be in place establishing the rights and immunities of U.S. Government employees and contractors in country.
2. Determine real estate acquisition methods and obtain all necessary real estate approvals through United States Forces Europe and the other military services/components, as appropriate.
3. Delegate Contract Administrative authorities to the CENAU Director of Contracting for the purpose of administration and implementation of MDA construction programs and site activation via a tailored FAR Part 42 delegation of Contract Administration Services. The functions to be performed under this delegation will be re-delegable and will include ACO authority sufficient to ensure efficient and effective management of the designated contract administration (see Appendix 2).
4. Exercise Program Baseline Control (maintain cost, schedule, performance parameters to meet program objectives).
5. Provide overall program policy, guidance, direction for development and deployment of BMDS systems.
6. Establish criteria directly related to the functional and operational requirements of assigned tasks. Participate in and facilitate technical discussions between USACE and the Systems Prime Contractors (PC).
7. Coordinate Congressional programming actions and reports.
8. Prepare and approve environmental studies/assessments and BMDS technical data input necessary to comply with environmental requirements established by Host Nation Agreements and applicable DoD Instructions (as eventually reconciled by US Final Government Standards).
9. Approve environmental management execution plans.
10. Jointly manage Facility Configuration Control in accordance with the schedule and funding limits of the approved Facility Configuration Management Plan.
11. Provide an independent Commissioning authority to review and comment on plans and specifications, develop and witness functional system performance tests and prepare test reports for facilities, which support systems level operational requirements prior to installation of mission equipment.
12. Approve facilities requirements.
13. Pay all costs associated with CENAU's provisions of goods or services.

### 5.2 Responsibilities of CENAU

1. Provide design and construction expertise to MDA/DFW to include but not be limited to:



- Assess Design Specification Compliance
  - Construction Material Verification and Testing
  - Facility Construction Supervision and Administration and ACO authority as outlined in Appendix 2.
  - Construction Schedule Review and Analysis
  - Earned Value Management System (EVMS) Contract administration
  - Enforce on-Site construction Safety and provide Environmental Management Oversight in accordance with designated ACO authorities.
  - Construction Cost Management and Analysis
  - Support Facility Commissioning Planning, Scheduling & Execution
  - Advise and assess facility related impacts of programmatic and technology decisions.
  - Monitor technical activities as they relate to facilities and support MDA/DFW in integrating technology changes into the BMDS Program.
  - Integrate system product assurance activities into BMDS facilities.
  - Support the program configuration management for hardware and software into the facilities subsystems. Implement the overall Configuration Management (CM) program (to include product configuration identification, standardization, engineering release, configuration change control and contractor reviews and audits) as it pertains to BMDS facilities.
  - Perform Delegated Administrative Contracting Officer activities to ensure MDA/DFW design and construction meets contract requirements.
  - Provide O&M support
2. Provide District Office project management and reach-back support for European site design, construction and site activation to include but not limited to:
- Direct and perform special studies as requested. These studies may include system quality assurance, Reliability, Availability, and Maintainability (RAM), review or preparation of Seismic Hazard studies, and future BMDS alternative programs.
  - Perform geotechnical, topographical, environmental and UXO surveys at designated sites within the Europe AOR.
  - Serve as a member of the MDA team in the development of international agreements between the U.S. and the Host Nation as they relate to facility design, construction, and Host Nation environmental law.
  - Maintain a Current Working Estimate (CWE) of available funds and projected funding needs for USACE Area/Resident and district support offices including costs related to ACO, construction management efforts, and Facility Change Proposals final negotiated cost. Provide monthly schedule and cost reports to the MDA/DFW to allow timely and effective management of the program.

- Review BMDS environmental studies and assessments, BMDS siting reports, community impact assessment plans, and facility requirements documents, as requested.
  - Assist in the development of Prime contract provisions and requirements as they relate to infrastructure design and construction.
  - Review engineering requirements and engineering designs of tactical and support facilities; attend design review conferences and planning charrettes as required.
  - Serve as a member on facility design and construction configuration control boards.
  - Serve as a member on working integrated product teams (WIPTS) for facilities, environmental, and other IPTs or similar panels as required.
  - Technical oversight and expertise of design and construction activities to include construction office staffing, staffing support and TDY to fill key technical positions on site and reachback support to meet critical or specialized requirements during the life of the project.
  - Participate in the development and management of the Award/ Incentive Fee Plan and serve as a member of award fee boards as related to construction activities under the Prime contract.
  - Participate in and evaluate Prime Contractor(s) source selection process for facility design and construction effort.
  - Assess and ensure that all appropriate documentation and construction permitting obtained within the purview of the Host Nation implementing agreements, to include site-specific environmental documentation and facilities operations and maintenance documentation.
  - Provide support for MDA/DFW facility commissioning planning, scheduling execution, testing, completion and closeout efforts.
  - Support MDA with real estate acquisition activities as requested.
  - When NAU is ACO or when NAU does not award the contract, USACE staff will support MDA on disputes and claims on a reimbursable basis
3. When requested by MDA/DFW, procure and administer contracts, through normal USACE policies and procedures, for engineering and construction services that support MDA in the Europe AOR. When USACE is PCO or when USACE awards a contract, USACE shall have dispute resolution authority for claims. Any contracting officer's final decision may be appealed by the contractor pursuant to the Contract Disputes Act of 1978. When USACE awards a contract, USACE shall be responsible for handling all litigation involving disputes and appeals, and for coordinating with the Department of Justice as appropriate. USACE shall notify the MDA of any such litigation and afford the MDA an opportunity to review and comment on the litigation proceedings and any resulting settlement negotiations.

## 6.0 FINANCIAL PROCEDURES

### 6.1 Reimbursable Funding

MDA/DFW will arrange for and provide all funds required to pay all costs associated with CENAU's provision of goods or services under this MOU on a reimbursable basis. Funds must be received in advance of the expenditure of labor hours. If CENAU forecasts its actual costs to exceed the amount of funds available, it shall promptly notify the MDA of the amount of additional funds necessary to complete the work. The MDA shall either provide the additional funds to USACE, require that the scope of work be limited to that which can be paid for by the then-available funds, or direct termination of the work.

### 6.2 Budget Requirements

MDA/DFW will request budget requirements from CENAU on a task basis. CENAU will prepare budget proposals detailing costs to execute each task and submit them to MDA/DFW for approval. The approved budget proposals will be rolled into the CWE and updated on a periodic basis to reflect program funding requirements.

### 6.3 Training

All training for CENAU technical support personnel is the responsibility of CENAU and subject to District normal business processes unless required to support MDA mission requirements or as otherwise authorized by MDA/DFW, in which case the training costs will be a reimbursable expense to MDA/DFW.

### 6.4 Travel

Travel required in support of the BMDs Program will be included in the CENAU operating budget and funded directly by MDA/DFW. CENAU will issue all program related travel orders for technical support personnel and will approve travel claims.

### 6.5 Overtime

Overtime worked by technical support personnel will be paid in accordance with current personnel regulations. Projected overtime will be included in the CENAU budget proposal and updated as needed to support mission requirements.

### 6.6 Monthly Financial Reports

CENAU will provide to MDA/DFW monthly financial reports within 15 days following the end of an accounting month. The report will be formatted as prescribed by MDA/DFW and will reflect CENAU expenditures.

### 6.7 Personnel Authorizations

Personnel authorizations for CENAU will be reflected in Appendix 1 of this MOU. This level of support may be adjusted at any time with mutual agreement of both parties. The estimated cost shall be provided to MDA/DFW and mutually agreed upon at the time Appendix 1 is reviewed or updated.

**7.0 RESPONSIBILITY FOR COSTS**

If liability of any kind is imposed on the United States relating to the CENAU's provision of goods or services under this MOU, the CENAU will accept accountability for its actions, but the MDA shall remain responsible as the program proponent for providing such funds as are necessary to discharge the liability, and all related costs. This obligation extends to all funds legally available to discharge this liability, including funds that may be made legally available through transfer, reprogramming or other means. Should the MDA have insufficient funds legally available, including funds that may be made legally available through transfer, reprogramming or other means, they remain responsible for seeking additional funds from Congress for such purpose, although nothing in this MOU shall be construed to imply that Congress will appropriate funds sufficient to meet the liability.

Notwithstanding the above, this MOU does not confer any liability upon the MDA for claims payable by the CENAU under the Federal Torts Claims Act. Provided further that nothing in this MOU is intended or will be construed to create any rights or remedies for any third party and no third party is intended to be a beneficiary of this MOU.

**8.0 REVIEW TERMS AND PROVISIONS**

**8.1 Effective Date**

This MOU will become effective upon the date of the last approving signature.

**8.2 Annual Review**

This agreement will be reviewed at the request of either party, but at least annually, to determine the need for continuation, modification, or termination. The annual review will be conducted no later than 60 days before 1 October of each year.

**8.3 Revisions or Modifications**

Revisions or modifications to this agreement may be made at any time as a joint action and with the mutual consent of both parties. Revisions or modifications will be attached to the agreement as a supplement until the next formal review, at which time they will be fully integrated into the agreement.

**9.0 PUBLIC INFORMATION**

Justification and explanation of the MDA's programs before Congress and other agencies, departments, and offices of the Federal Executive Branch shall be the responsibility of the MDA. The CENAU may provide, upon request, any assistance necessary to support the MDA's justification or explanations of the MDA's programs conducted under this MOU. In general, the MDA is responsible for all public information. The CENAU may make public announcements and respond to all inquiries relating to the ordinary procurement and contract award and administration process. The MDA or the DA shall make its best efforts to give the other party advance notice before making any public statement regarding work contemplated, undertaken, or completed pursuant to this MOU. Any public information pertaining to the MDA or BMDS-sponsored work, which is intended for public release, even when considered unclassified, must be forwarded to MDA for clearance and approval, prior to the desired release date. Such information includes, but is not limited to: news releases, responses to inquiries from the news media or general public, and technical papers or reports proposed for unlimited publication or presentation. The MDA will, in concert with other designated parties, determine what is releasable and what method of handling are required for that release.

**10.0 TERMINATION PROCEDURES**

During the tenure of this agreement, MDA agrees to keep CENAU advised of plans, program, and budgets that will affect personnel support requirements. If the agreement must be terminated, suspended, or modified, the MDA shall provide any additional funds necessary to cover the actual costs as then known. This will in no way limit the MDA's duty in accordance with paragraph 7.0 to pay for any costs, such as contract claims or other liability, which may become known after the final accounting.

**11.0 ACCEPTANCE OF AGREEMENT**

\_\_\_\_\_  
MARGARET W. BURCHAM/Date  
Colonel, USA  
Commander  
U.S. Army Corps of Engineers,  
Europe District

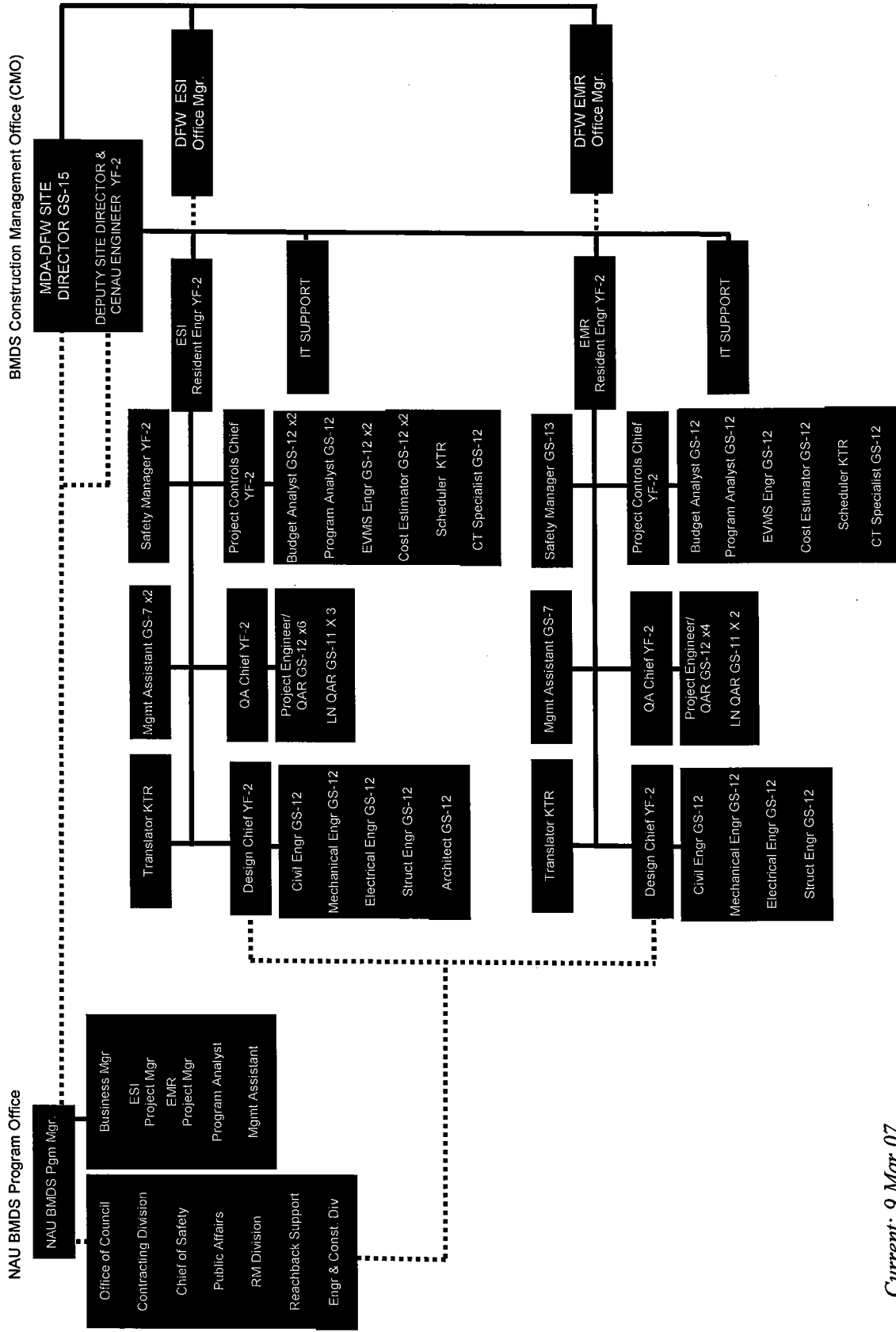
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KYLE HAASE/Date  
Colonel, USA  
Program Manager  
Missile Defense Agency,  
BMDS World Wide Deployment

Appendix 1: Construction Management Office (CMO) Organizational Structure  
Appendix 2: Administrative Contracting Officer (ACO) Appointment Memorandum



**APPENDIX 1: CONSTRUCTION MANAGEMENT OFFICE (CMO)  
ORGANIZATIONAL STRUCTURE**

Tab A: European BMDs Construction Management Office



Current: 9 Mar 07

**APPENDIX 1: CONSTRUCTION MANAGEMENT OFFICE (CMO) ORGANIZATIONAL STRUCTURE**

Position Number	Activity	Duty Title	Series/Grade	Incumbent Last, First, MI	FY08	FY09	FY10	FY11
TBD	CMO	Deputy Site Director/AE	YF-2	Vacant	1	1	1	1
TBD	EIS RE Office	Resident Engineer	YF-2	Vacant	1	1	1	1
TBD	EIS RE Office	Safety Manager	GS-13	Vacant	1	1	1	1
TBD	EIS RE Office	Management Assistant	GS-9	Vacant	2	2	2	2
TBD	EIS RE Office	Translator	KTR	Vacant	1	1	1	1
TBD	EIS RE Office	QA Chief	YF-2	Vacant	1	1	1	1
TBD	EIS RE Office	PE/QAR	GS-12	Vacant	6	6	6	6
TBD	EIS RE Office	LN QAR	GS-11	Vacant	3	3	3	3
TBD	EIS RE Office	Design Chief	YF-2	Vacant	1	1	1	1
TBD	EIS RE Office	Civil Engineer	0810/GS-12	Vacant	1	1	1	1
TBD	EIS RE Office	Mechanical Engineer	0830/GS-12	Vacant	1	1	1	1
TBD	EIS RE Office	Electrical Engineer	0850/GS-12	Vacant	1	1	1	1
TBD	EIS RE Office	Structural Engineer	0810/GS-12	Vacant	1	1	1	1
TBD	EIS RE Office	Architect	0808/GS-12	Vacant	1	1	1	1
TBD	EIS RE Office	Project Controls Chief	YF-2	Vacant	1	1	1	1
TBD	EIS RE Office	Budget Analysts	GS-12	Vacant	2	2	2	2
TBD	EIS RE Office	Program Analyst	GS-12	Vacant	1	1	1	1
TBD	EIS RE Office	EVMS Engineer	ID/GS-12	Vacant	2	2	2	2
TBD	EIS RE Office	Cost Estimator	ID/GS-12	Vacant	2	2	2	2
TBD	EIS RE Office	Scheduler	KTR	Vacant	1	1	1	1
TBD	EIS RE Office	Contract Specialist	1102/GS-12	Vacant	1	1	1	1
TBD	EIS RE Office	IT Specialist	KTR	Vacant	1	1	1	1
				<b>Total</b>	33	33	33	33

1. ID = Interdisciplinary May be filled by Architecture (0808), Civil (0810), Mechanical (0830), or Electrical (0850)
2. Area Engineer position may be temporarily filled by dual-hat Resident Engineer if only one Resident Office is active.
3. LOE does not include District Level Support.

**Table 1: European Interceptor Site (EIS) Resident Engineer Office**

**APPENDIX 1: CONSTRUCTION MANAGEMENT OFFICE (CMO) ORGANIZATIONAL STRUCTURE**

Position Number	Activity	Duty Title	Series/Grade	Incumbent Last, First, MI	FY08	FY09	FY10	FY11
TBD	EMR RE Office	Resident Engineer	YF-2	Vacant	1	1	1	1
TBD	EMR RE Office	Safety Manager	GS-13	Vacant	1	1	1	1
TBD	EMR RE Office	Management Assistant	GS-9	Vacant	1	1	1	1
TBD	EMR RE Office	Translator	KTR	Vacant	1	1	1	1
TBD	EMR RE Office	QA Chief	YF-2	Vacant	1	1	1	1
TBD	EMR RE Office	Project Engineer/QAR	GS-12	Vacant	4	4	4	4
TBD	EMR RE Office	LN QAR	GS-11	Vacant	2	2	2	2
TBD	EMR RE Office	Design Chief	YF-2	Vacant	1	1	1	1
TBD	EMR RE Office	Civil Engineer	0810/GS-12	Vacant	1	1	1	1
TBD	EMR RE Office	Mechanical Engineer	0830/GS-12	Vacant	1	1	1	1
TBD	EMR RE Office	Electrical Engineer	0850/GS-12	Vacant	1	1	1	1
TBD	EMR RE Office	Structural Engineer	0810/GS-12	Vacant	1	1	1	1
TBD	EMR RE Office	Project Controls Chief	YF-2	Vacant	1	1	1	1
TBD	EMR RE Office	Budget Analysts	GS-12	Vacant	1	1	1	1
TBD	EMR RE Office	Program Analyst	GS-12	Vacant	1	1	1	1
TBD	EMR RE Office	EVMS Engineer	ID/GS-12	Vacant	1	1	1	1
TBD	EMR RE Office	Cost Estimator	ID/GS-12	Vacant	1	1	1	1
TBD	EMR RE Office	Scheduler	KTR	Vacant	1	1	1	1
TBD	EMR RE Office	Contract Specialist	1102/GS-12	Vacant	1	1	1	1
TBD	EMR RE Office	IT Specialist	KTR	Vacant	1	1	1	1
				<b>Total</b>	24	24	24	24
1. ID = Interdisciplinary May be filled by Architecture (0808), Civil (0810), Mechanical (0830), or Electrical (0850)								
2. LOE does not include District Level Support.								

**Table 2: European Midcourse Radar (EMR) Site Resident Engineer Office**

**APPENDIX 1: CONSTRUCTION MANAGEMENT OFFICE (CMO) ORGANIZATIONAL STRUCTURE**

Position Number	Activity	Duty Title	Series/Grade	Incumbent Last, First, MI	FY08	FY09	FY10	FY11
TBD	District BMDS Office	BMDS Program Manager	YF-2	Vacant	1	1	1	1
TBD	District BMDS Office	Business Manager	ID/GS-13	Vacant	1	1	1	1
TBD	District BMDS Office	EIS Project Manager	ID/GS-13	Vacant	1	1	1	1
TBD	District BMDS Office	EMR Project Manager	ID/GS-13	Vacant	1	1	1	1
TBD	District BMDS Office	Program Analyst	GS-12	Vacant	1	1	1	1
TBD	District BMDS Office	Management Assistant	GS-9	Vacant	1	1	1	1
TBD	CENAU Matrix Spt	Various	Various	Vacant	6	6	6	6
				<b>Total</b>	12	12	12	12
<p>1. ID = Interdisciplinary May be filled by Architecture (0808), Civil (0810), Mechanical (0830), or Electrical (0850)</p> <p>2. LOE includes District and IT support for both EIS and EMR sites. This support includes senior management, legal counsel, contracting, environmental, engineering and construction.</p> <p>3. CENAU matrix support is estimated at 6 LOE and will vary with mission requirements.</p>								

**Table 3: BMDS District Program Office**

**APPENDIX 2: ADMINISTRATIVE CONTRACTING OFFICER (ACO)  
APPOINTMENT MEMORANDUM**

DATE

MEMORANDUM FOR District Contracting Chief, USACE, Europe District, Wiesbaden, Germany

SUBJECT: Notice of Appointment of Administrative Contracting Officer for Contracts Administered by the U.S. Army Corps of Engineers, Europe District

1. Under the authority and limitations of EFARS 1.602-1-100 and your Certificate of Appointment, you are appointed Administrative Contracting Officer to exercise limited contracting authority in connection with subject contracts. You are authorized to:
  - Execute unilateral administrative modifications under FAR 43.103 (b) (1). Modify construction contracts within the scope of the contract under any of the following contract clauses unique to construction contracts, provided that no individual contract modification exceeds \$500,000 U.S. Dollars (the sum of deletions and additions): FAR 52.211-18, Variation in Estimated Quantity; EFARS 52.212-5001, Variations in Estimated Quantities - Subdivided Items; FAR 42.1302, Suspension of Work; FAR 52.236-2, Differing Site Conditions; FAR 52.243-4, Changes; and FAR 52.248-3, Value Engineering — Construction.
  - Modify construction contract performance periods under FAR clause 52.249-10, Default (Fixed-Price Construction), when a delay is due to unforeseeable causes beyond the control and without the fault of the contractor.
  - Modify purchase orders under FAR clause 52.243-5, Changes and Changed Conditions; provided that the modification does not cause the total value of the purchase order to exceed the simplified acquisition procedures limitation described at FAR 13.101.
  
2. Prior to executing any action under the above clauses, the Contracting Officer and Office of Counsel shall be notified and provide their consent when the action:
  - Exceeds \$500,000 U.S. Dollars (the sum of deletions and additions).
  - Is either the initial, intermediate, or definitization (referred to as Part I and Part II) of an “Unpriced” or “Undefinitized” Change Order.
  - Is in relation to a claim or might lead to a claim, regardless of the amount
  - Will require any decisions concerning disputes, protests, and appeals
  - Will be issued under FAR 52.236-2, Differing Site Conditions.

***APPENDIX 2: ADMINISTRATIVE CONTRACTING OFFICER (ACO) APPOINTMENT MEMORANDUM***

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3. Subject to the limitations in 1. above, to perform the contract administration functions as described at FAR 42.302, Contract Administration Functions, listed below:
- Review the contractor's compensation structure.
  - Review the contractor's insurance plans.
  - Conduct post-award orientation conferences.
  - Review and evaluate contractors' proposals under FAR 15.3 and, when negotiation will be accomplished by the contracting officer, furnish comments and recommendations.
  - Negotiate forward pricing rate agreements (see FAR 15.407-3).
  - In connection with Cost Accounting Standards (see FAR 30.601 and 48 CFR Chapter 99 (FAR Appendix))-
    - Determine the adequacy of the contractor's disclosure statements;
    - Determine whether disclosure statements are in compliance with Cost Accounting Standards and FAR 31;
    - Determine the contractor's compliance with Cost Accounting Standards and disclosure statements, if applicable; and
    - Negotiate price adjustments and execute supplemental agreements under the Cost Accounting Standards clauses at FAR 52.230-2, 52.230-3, 52.230-4, 52.230-5, and 52.230-6.
  - Review and approve or disapprove the contractor's requests for payments under the progress payments or performance-based payments clauses.
  - Ensure timely notification by the contractor of any anticipated overrun or under run of the estimated cost under cost re-imbusement contracts.
  - Make payments on assigned contracts when prescribed in agency acquisition regulations.
  - Monitor the contractor's financial condition and advise the contracting officer when it jeopardizes contract performance.
  - Analyze quarterly limitation on payments statements and recover overpayments from the contractor.
  - For classified contracts, administer those portions of the applicable industrial security program delegated to the ACO (see FAR 4.4).
  - Issue work requests under maintenance, overhaul, and modification contracts.
  - Perform necessary screening, redistribution, and disposal of contractor inventory.
  - Perform production support, surveillance, and status reporting, including timely reporting of potential and actual slippages in contract delivery schedules.
  - Monitor contractor industrial labor relations matters under the contract; apprise the contracting officer and, Office of Counsel, of actual or potential labor disputes; and coordinate the removal of urgently required material from the strikebound contractor's plant upon instruction from, and authorization of, the contracting officer.

***APPENDIX 2: ADMINISTRATIVE CONTRACTING OFFICER (ACO) APPOINTMENT MEMORANDUM***

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- Review the adequacy of the contractor's traffic operations.
- Review and evaluate preservation, packaging, and packing.
- Ensure contractor compliance with contractual quality assurance requirements (FAR 46).
- Ensure contractor compliance with contractual safety requirements.
- Perform engineering surveillance to assess compliance with contractual terms for schedule, cost, and technical performance in the areas of design, development, and production.
- Evaluate for adequacy and perform surveillance of contractor engineering efforts and management systems that relate to design, development, production, engineering changes, subcontractors, tests, management of engineering resources, reliability and maintainability, data control systems, configuration management, and independent research and development.
- Review and evaluate for technical adequacy the contractor's logistics support, maintenance, and modification programs.
- Report to the contracting office any inadequacies noted in specifications.
- Perform engineering analyses of contractor cost proposals.
- Review and analyze contractor-proposed engineering and design studies and submit comments and recommendations to the contracting office, as required.
- Review engineering change proposals for proper classification, and when required, for need, technical adequacy of design, producibility, and impact on quality, reliability, schedule, and cost; submit comments to the contracting office.
- Assist in evaluating and make recommendations for acceptance or rejection of waivers and deviations.
- Evaluate and monitor the contractor's procedures for complying with procedures regarding restrictive markings on data.
- Monitor the contractor's value engineering program.
- Monitor the construction contractor's system tests as part of the Commissioning team to ensure it meets operational requirements and sign the test report.
- Review, approve or disapprove, and maintain surveillance of the contractor's purchasing system (see FAR 44.3).
- Consent to the placement of subcontracts.
- Assign and perform supporting contract administration.
- Ensure timely submission of required reports.
- Issue administrative changes, correcting errors or omissions in typing, contractor address, facility or activity code, remittance address, computations which do not require additional contract funds, and other such changes (see FAR 43.101).



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- Cause release of shipments from contractor's plants according to the shipping instructions. When applicable, the order of assigned priority shall be followed; shipments within the same priority shall be determined by date of the instruction.
- Obtain contractor proposals for any contract price adjustments resulting from amended shipping instructions. Review all amended shipping instructions on a periodic, consolidated basis to ensure that adjustments are a timely manner. Except when the ACO has settlement authority, the ACO shall forward the proposal to the contracting officer for contract modification. The ACO shall not delay shipments pending completion and formalization of negotiations of revised shipping instructions.
- Negotiate but not execute supplemental agreements, as required, making changes in packaging subcontractors or contract shipping points.
- Accomplish administrative closeout procedures (see FAR 4.804-5).
- Determine that the contractor has a drug-free workplace program and drug-free awareness program (see FAR 23.5).
- Support the program, product, and project offices regarding program reviews, program status, program performance and actual or anticipated program problems.
- Monitor the contractor's environmental practices for adverse impact on contract performance or contract cost, and for compliance with environmental requirements specified in the contract. ACO responsibilities include-
  - Requesting environmental technical assistance, if needed;
  - Monitoring contractor compliance with specifications requiring the use of environmentally preferable products, energy-efficient products, and materials or delivery of end products with specified recovered material content. This must occur as part of the quality assurance procedures set forth in FAR 46; and
  - Ensuring that the contractor complies with the reporting requirements relating to recovered material content utilized in contract performance (see FAR 23.4).
- Administer commercial financing provisions and monitor contractor security to ensure its continued adequacy to cover outstanding payments, when on-site review is required.
- Deobligate excess funds after final price determination.
- Negotiate and execute supplemental agreements incorporating contractor proposals resulting from change orders issued under the Changes clause. Before completing negotiations, coordinate any delivery schedule change with the contracting office.
- Negotiate prices and execute priced exhibits for unpriced orders issued by the contracting officer under basic ordering agreements.
- Negotiate and execute supplemental agreements changing contract delivery schedules.
- Negotiate and execute supplemental agreements providing for the deobligation of unexpended dollar balances considered excess to known contract requirements.

**APPENDIX 2: ADMINISTRATIVE CONTRACTING OFFICER (ACO) APPOINTMENT MEMORANDUM**

- Prepare evaluations of contractor performance in accordance with FAR 42.15. Any outstanding or interim or final unsatisfactory performance appraisals shall be signed by the Contracting Officer with coordination from Office of Counsel.
- 4. Any additional contract administration functions not listed in FAR 42.302(a) and (b), or not otherwise delegated, remain the responsibility of the contracting officer.
- 5. This appointment may be re-delegated within the Europe District as required to administer assigned contracts.
- 6. Contract actions executed by you as Administrative Contracting Officer shall be signed in the following manner:

“The United States of America

By \_\_\_\_\_  
Administrative Contracting Officer”

- 7. All personnel engaged in contract and related activities shall conduct business dealings with industry in a manner above reproach in every aspect and shall protect the U.S. Government’s interest, as well as maintain its reputation for fair and equal dealings with all contractors. DOD Regulation 5500.7R, the “Joint Ethics Regulation”, sets forth applicable standards of conduct for all persons directly and indirectly involved in contracting. You must review DOD Regulation 5500.7R semiannually.
- 8. This authorization shall remain in effect unless sooner terminated, or as long as this MOU is in force. Copies of this designation shall be furnished by you to the contractor for every contract which you will exercise the authority granted by this memorandum. You and the contractor shall acknowledge receipt in the space provided below and return one signed copy of retention in the official contract file(s).

WILLIAM D. MILLS  
Contracting Officer  
Missile Defense Agency