DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
INSTALLATIONS AND ENVIRONMENT
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MEMORANDUM THRU DIRECTOR OF THE ARMY STAFF

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SUBJECT: Army Environmental Compliance-Related Cleanup Program Eligibility

In April 2003, the ASA(I&E) directed that environmental restoration and compliance-related cleanup be addressed under a unified Army Environmental Cleanup Strategy (AECS). The AECS integrates the Defense Environmental Restoration Program (DERP), Base Realignment and Closure (BRAC) cleanup, Formerly Used Defense Sites (FUDS) cleanup, Special installation cleanup, remediation overseas, and compliance-related cleanup. The purpose in directing this "one cleanup program" is to optimize program efficiency, accountability, and consistency by applying common objectives and requirements to all cleanups associated with past and current activities in support of installations and the transforming Army.

Compliance-related cleanup (CC) includes actions to address contamination at Army facilities overseas; contamination resulting from operations that have occurred since October 1986 (i.e., non-DERP) at Army Active, Excess, and Special installations, and Army National Guard (ARNG) Federally owned facilities; and contamination at Non-Federally owned, Federally supported ARNG facilities. As a key element of the broader AECS and its associated Environmental Cleanup Strategic Plan, the CC mission at Army installations and facilities is to perform appropriate, cost-effective cleanup to protect human health, safety, and the environment, and to sustain operational readiness and training. Specifically, for overseas facilities, our CC mission is to address contamination that resulted from Army operations, presents a known imminent and substantial endangerment to human health and safety, and is located on or emanates from an Army facility.

The enclosure provides interim program eligibility guidelines for CC that installations, facilities, and activities will apply under the purview of the Army Environmental Cleanup Strategic Plan. Addressees will implement policies and develop operating procedures to ensure compliance with these guidelines.

Raymond J. Fatz
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(Environment, Safety and Occupational Health)
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Enclosure

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Army Compliance-Related Cleanup Program Eligibility Guidelines

1. References.

   a. Memorandum, ODASA(I&H), 12 April 2002, Subject: Environmental Contaminants on MILCON Sites

   b. Memorandum, ASA(I&E), 9 April 2003, Subject: Oversight and Management of Army Environmental Cleanup

   c. Memorandum, ASA(I&E), 28 April 2003, Subject: Army Environmental Cleanup Strategy

   d. Memorandum, DAIM-ZA, 29 May 2003, Subject: Army Environmental Cleanup Strategy

   e. The Defense Environmental Restoration Program (DERP), 10 U.S.C. 2701 et seq.

   f. Management Guidance for the Defense Environmental Restoration Program (DERP), September 2001.

2. Purpose and Applicability.

These guidelines are primarily intended for the Army's compliance-related cleanup (CC) program managers to use in developing and implementing programs to effectively and efficiently manage CC at Army installations. They are specifically designed to ensure a common understanding of what CC is and which types of environmental projects are eligible for funding under the CC program. The Army Program Managers for CC are as follows: Army National Guard facilities – National Guard Bureau (NGB); CONUS/OCONUS/USAR active installations – Installation Management Agency (IMA); Excess installations – ACSIM BRAC Division; Special installations – mission commander (Major Army Command (MACOM)).

These guidelines specifically apply to installations or facilities under the authority of IMA, NGB, and the following MACOMs: U. S. Army Materiel Command (AMC), U.S. Army Medical Command (MEDCOM), U.S. Army Surface Deployment and Distribution Command (SDDC), and U.S. Army Strategic Missile Defense Command (SMDC).

3. Applicable Statutes and Other Requirements.

   a. Resource Conservation and Recovery Act (RCRA)

b. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

c. DODI 4715.8, *Environmental Remediation for DoD Activities Overseas*

d. Binding international agreements (e.g., Status of Forces Agreement)

4. Definitions. The following terms are used throughout these guidelines.

a. *Army Environmental Database (AEDB)* – a web-based automated information management system (which is operated and maintained by the U.S. Army Environmental Center) for integrating the Army's cleanup, conservation, compliance, and pollution prevention environmental data. The Army Environmental Database – Compliance-Related Cleanup (AEDB-CC) is a subset of the AEDB that will be developed and exclusively used for tracking at the site level (from project initiation to completion) all CC-eligible projects.

b. *Assessment and Findings for Determination of Eligibility (AFDE)* – Assessment conducted to identify the program responsible for funding. An AFDE is not part of a CC project.

c. *Compliance-Related Cleanup (CC) Site* – a location where contaminants have been disposed, spilled, or otherwise released by DoD to the environment and requires a response beyond the initial/emergency response actions. A site is the basic unit for planning and implementing response actions.

d. *Environmental Program Requirements WEB (EPRWEB)* – a system used for identification and reporting of Base Operations Support (BOS) environmental program requirements, including the import of compliance-related cleanup requirements from AEDB-CC.

e. *EPRWEB – Mission (EPRWEB – M)* – a system similar to EPRWEB, available for use exclusively by BRAC, Excess and Special installations to identify and report environmental program requirements, including compliance-related cleanup requirements. These requirements are funded from the appropriate account of the proponent's operating budget, not the compliance accounts for which ACSIM is the proponent.

f. *Excess installation* – a group of former installations, not covered by BRAC legislation, which the Army has identified as excess to operational needs. The BRAC Division of the Office of the Assistant Chief of Staff for Installation Management (ACSIM) has been assigned responsibility for property transfer at Excess installations.

g. *Initial/Emergency Response Action* – action taken immediately after occurrence or discovery of a release to prevent further migration. Initial/emergency response actions include, but are not limited to, preliminary investigations to determine the initial

extent of contaminant migration; physical containment, removal, and/or excavation of excess contaminant and contaminated soil or material; over packing in drums (if needed); transport for disposal; and disposal at an approved disposal facility. An Initial/Emergency Response Action is not a CERCLA Preliminary Assessment/Site Investigation or a RCRA Facility Assessment.

h. *Munitions and Explosives of Concern (MEC)* – the term, which distinguishes specific categories of military munitions that may pose unique explosives safety risks, means (1) Unexploded Ordnance (UXO) as defined in 10 U.S.C. 101(e)(5)(A)-(C); ; (2) discarded military munitions (DMM), as defined in 10 U.S.C. 2710(e)(2); or (3) munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. 2710(e)(3), present in high enough concentrations to pose an explosive hazard.

i. *Release* – any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment. The term also includes abandoned or discarded barrels, containers, and other closed receptacles containing hazardous wastes or constituents of hazardous materials.

j. *Response Action* – for purposes of this guidance, emergency, removal, remedial, corrective, or other actions taken to address release of contaminants at Army sites.

k. *Remedial Action Cost Engineering and Requirements (RACER)* – an off-the-shelf cost estimating software that is designed to provide the total cost to clean up a site, from initiation to final reporting.

l. *Special installation* – an installation that primarily uses funds other than operation and maintenance funds (i.e., mission funds) to conduct traditional garrison operations in support of its primary mission. Special installations are generally very small, mostly industrial, and typically do not have a stand-alone installation staff. Command, control, manpower, and funding remain with the MACOMs, while traditional base operations support (BOS) oversight is provided by the IMA. Several mission fund types are used in the operation of these installations, including: Army Working Capital Funds (AWCF); Transportation Working Capital Funds (TWCF); Chemical Program funds; Defense Health Program (DHP) funds; Procurement Army Ammunition (PAA) funds; and Research, Development, Test, & Evaluation (RDT&E) funds.

m. *Non-Federal, Federally Supported* – a term that describes Non-Federally owned installations, facilities, activities, and properties that currently receive or have received Federally appropriated funds or are used to support the federal missions of the ARNG. Such missions include but are not limited to, the training of troops, the firing of military munitions, and any other operation required for maintaining their status as a reserve component of the United States military.

5. Scope of CC Program. Site-level projects undertaken to further investigate, and when necessary, to conduct response actions to address a release of contaminants at Army sites.

Broad CC categories include the following:

a. Response to releases under CERCLA or RCRA corrective action that are not eligible for funding under the DoD DERP Management Guidance (e.g., releases that occurred on or after October 17, 1986[1]).

(1) Cleanup mandated under authority of Federal and/or State environmental laws.

(2) Releases from hazardous waste treatment, storage, disposal facilities, or solid waste landfills that are undergoing RCRA closure.

(3) Releases from a RCRA Underground Storage Tank (UST) if it was in service as of October 17, 1986.

(4) Contamination at overseas installations as prescribed by DODI 4715.8.

(5) Contamination at Non-Federally owned, Federally-supported ARNG sites.

b. Typical CC projects include, but are not limited to the following:

(1) Investigation and response action that goes beyond the initial/emergency response action. Initial/emergency actions are paid for by the generator of the contamination. Further investigation and response action to address contamination of soil, surface water or groundwater after the initial containment, removal and disposal of contaminated materials is a CC project.

(2) Investigation and response actions for leaking USTs after the initial confirmation sampling to determine that a release from the tank or appurtenant equipment has occurred.

(3) CERCLA actions for known contamination that are not eligible for other funding in accordance with the DERP Management Guidance.

(4) RCRA corrective actions for known contamination that are not eligible for other funding in accordance with the DERP Management Guidance.

(5) RCRA closure actions where a release of contamination has occurred.

[1] The post-1986 date is not applicable to overseas installations or Non-Federally owned, Federally supported ARNG sites.

(6) Cleanup of contamination at closed, transferred, or transferring ranges that is not included under the Military Munitions Response Program.

(7) Post cleanup monitoring and maintenance associated with a CC project after the response action has been instituted (e.g., remedy in place).

c. Projects that are ***not eligible*** for the CC Program include, but are not limited to:

(1) Investigation and response to contamination resulting from post-1986 activities associated with initial/emergency response action.

(2) Projects or actions to address contamination at sites that are NOT permanent base force structure installations overseas. Specifically, the CC Program cannot be used to program for response actions associated with operational deployments and contingency operations (CONOPS) – including CONOPs in hazardous and/or hostile areas (e.g., the Balkans, Iraq, Afghanistan).

(3) Projects eligible for funding under the DERP Management Guidance.

(4) Environmental baseline surveys (EBS) and initial site assessments (e.g., AFDE) to gather information on site conditions or suspected releases (when there is no evidence of a spill or other release of contaminants).

(5) Aboveground Storage Tank (AST)/UST removal or disposal, to include initial sampling to determine if contamination is present.

(6) Responses to MEC on an operational range.

(7) Building demolition or debris removal (BD/DR).

(8) Routine hazardous waste treatment, storage, or disposal.

(9) Construction, upgrade, operation, maintenance, or demolition of hazardous waste treatment, storage, or disposal facilities.

(10) Operating permit fees (e.g., RCRA Subpart X).

(11) Development, implementation, or revision of Hazardous Waste Management Plans; Spill Prevention, Control and Countermeasures Plans; Emergency Response Plans; facility closure plans; community relations plans; or other routine plans pertaining to hazardous waste or material management.

(12) Normal closure activities for permitted/interim status sites where there is no evidence of a release to the environment (e.g., landfill capping).

d. Figures 1 and 2 describe the process used to determine CC project eligibility within states and territories and overseas, respectively. In Figure 1, Higher Headquarters is defined as HQ IMA, NGB, ACSIM BRAC Division and MACOM (for Special Installations). In Figure 2, Higher Headquarters is defined as HQ IMA.

Figure 1. States and Territories CC Project Eligibility Determination Process

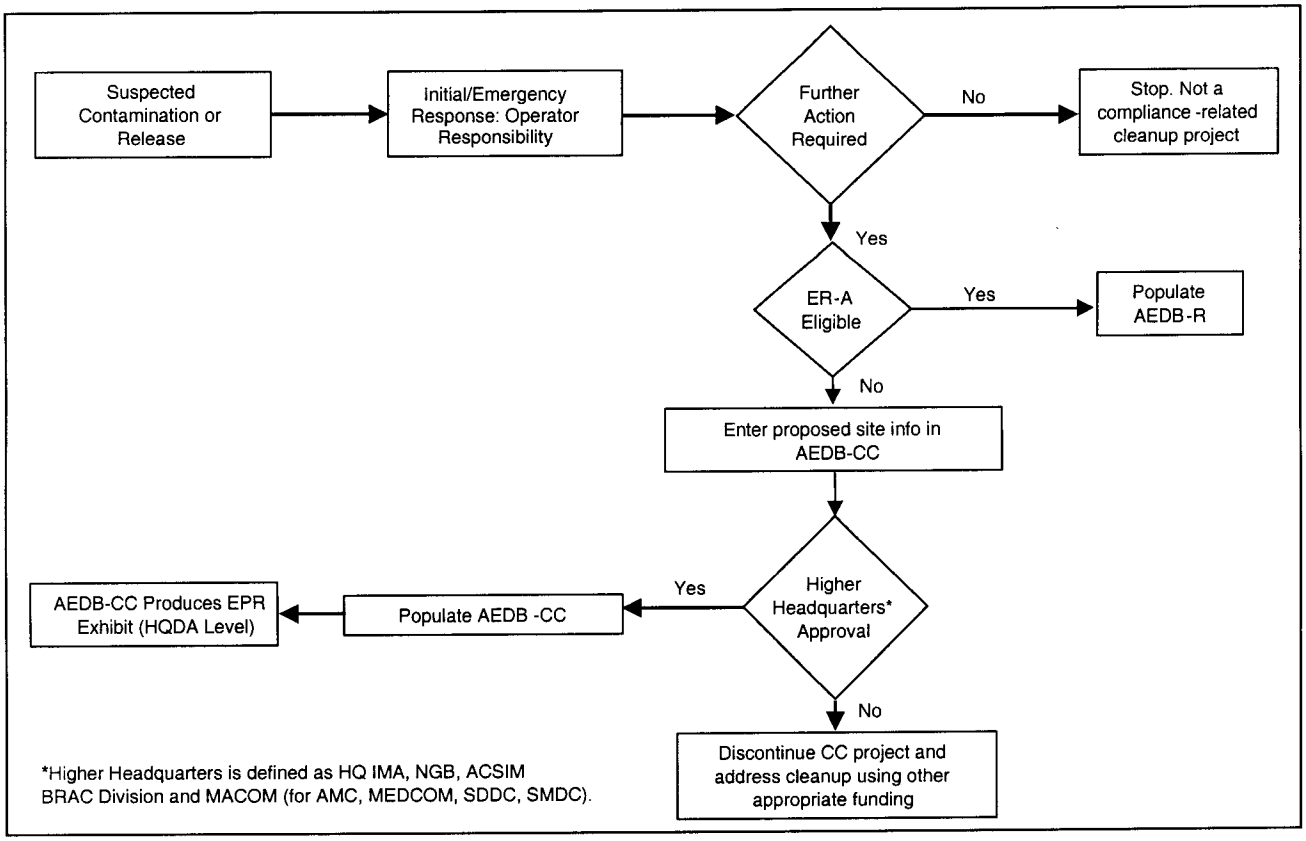
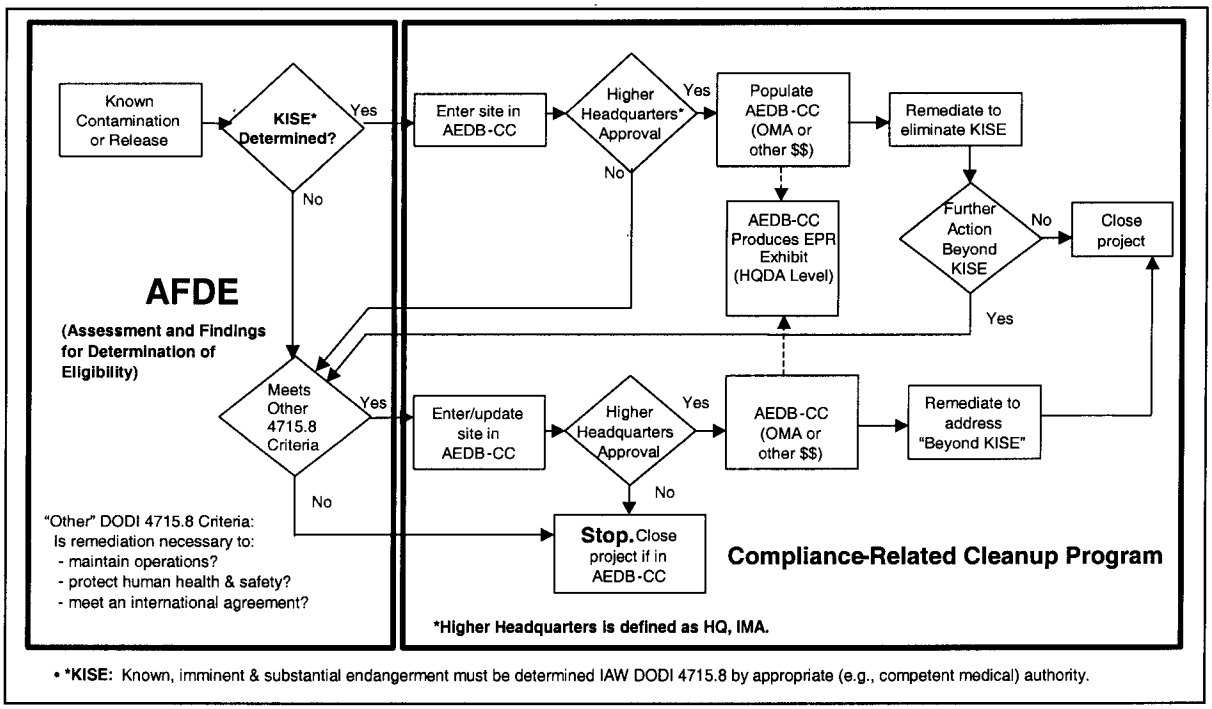
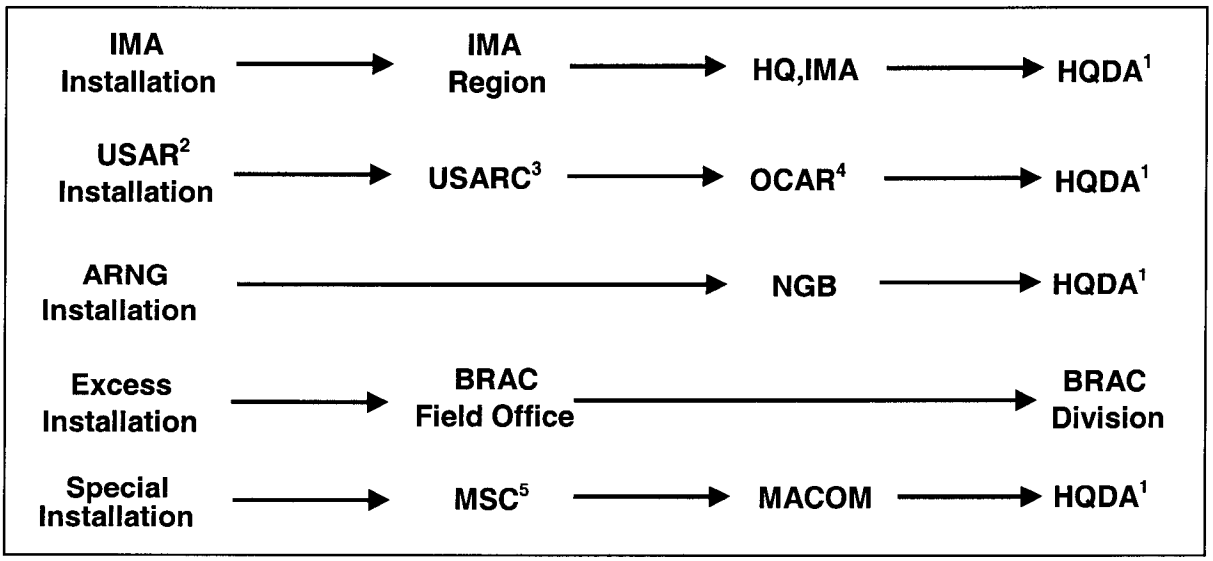


Figure 2. Overseas CC Project Eligibility Determination Process



e. Figure 3 illustrates the formal CC project approval scheme for each category of installation.

Figure 3. CC Project Approval Hierarchy



1. IMA and NGB approve use of current year funds; HQDA validates "defensible & auditable costs" of project for budget and POM years; EPRWEB or EPRWEB-M project is produced via CC database for validated projects only.
2. U.S. Army Reserve.
3. U.S. Army Reserve Command; USARC installations are scheduled to be assimilated into IMA.
4. Office, Chief of Army Reserve.
5. Major Subordinate Command; if no MSC exists, special installations report directly to the MACOM.

6. Identifying and Tracking CC Requirements.

a. The U.S. Army Environmental Center (USAEC) will develop and field an AEDB for Compliance-Related Cleanups to facilitate the exclusive identification and tracking of CC requirements (i.e., sites) from initiation through completion, beginning with the Fall 04 submission.

b. The CC Program Managers will develop a complete inventory of all known CC sites and enter project and funding requirements into the AEDB-CC by the end of FY04.

c. When identifying CC funding requirements, CC Program Managers will use existing validated cost estimating models and/or procedures to develop and justify CC project costs.

7. Forecasting and Funding CC Requirements. HQ, IMA, NGB, and BRAC Division will:

a. Program and budget resources needed to conduct response actions to address unforecasted CC-eligible contamination that is discovered during the current Fiscal Year (amount approved by HQDA based on historical data).

b. Fund installations and facilities to execute unforecasted CC-eligible projects in the current FY.

8. Executing CC Response Actions.

a. IMA, NGB, and excess installations and facilities (excluding tenant activities) will:

(1) Conduct initial/emergency response activities to investigate, contain, or prevent further migration of contamination in order to minimize future response costs and protect the environment. Initial/emergency response activities are not CC-eligible projects.

(2) If response action beyond initial/emergency response is required, initiate a CC project. Funds budgeted in paragraph 7.a. may be used for response action after the CC project is approved by higher headquarters as shown in Figure 3. Out-year costs, if any, will be estimated using RACER or another verified and validated estimating model, become part of the CC project, and be included in the Program Objective Memorandum (POM) build.

b. Special installations will:

(1) Conduct initial/emergency response activities to investigate, contain, or prevent further migration of contamination in order to minimize future response costs and protect the environment. Initial/emergency response activities are not CC-eligible projects.

(a) For Government-Owned, Government-Operated (GOGO) installations, costs related to initial/emergency response activities are paid from the applicable special account (e.g., AWCF, TWCF, etc.) applicable to that facility.

(b) For Government Owned, Contractor Operated (GOCO) installations, costs related to initial/emergency response activities are paid by the contractor or as provided for in the applicable operating contract.

(c) Installations should identify funding shortfalls to the appropriate higher headquarters, if funds necessary to conduct an initial/emergency response activity are not available at the installation level.

(2) If response action beyond initial/emergency response is required, initiate a CC project. Installations are required to enter these projects in the AEDB-CC.

(a) For GOGO installations, out-year costs, if any, will be estimated using RACER or another verified and validated estimating model, become part of the CC project, and be included in the Program Objective Memorandum (POM) build.

(b) For GOCO installations, out-year costs, if any, will be estimated using RACER or another verified and validated estimating model, become part of the CC project, and be paid by the contractor or as provided for in the applicable operating contract.

(c) Installations should identify funding shortfalls to the appropriate higher headquarters, if funds necessary to conduct the response action are not available at the installation level.

9. Installation Action Plan Requirements. Installations that already have an IAP as required under DERP will include CC projects within the scope of the existing IAP. At non-DERP sites, IMA, BRAC Division, NGB, and MACOMs will determine the requirement for an IAP.

10. Periodic Review Requirements. Installations will conduct periodic reviews in accordance with applicable regulatory requirements.

11. Managing and Tracking CC Requirements. Several Management Decision Packages (MDEPs) will account for the resources allocated to meet CC program requirements. Table 1 provides a breakout of applicable MDEPs and appropriations by site, program, and database used to catalog and track CC requirements.

Table 1. CC Program Management Decision Packages (MDEPs)

Site	Program	Requirements Database	MDEP/APPN
IMA	Active	AEDB-CC	VENC/OMA
IMA	Overseas	AEDB-CC	VENC/OMA
NGB	NGB	AEDB-CC	VENC/OMNG
NGB	MMR	AEDB-CC	VEMR/OMNG
BRAC	Excess Non-Restoration	AEDB-CC	EXCS/OMA
AMC	Special	AEDB-CC	As appropriate/OMA, OPA, et al
MED	Special	AEDB-CC	As appropriate/OMA, OPA, et al
SDDC	Special	AEDB-CC	As appropriate/OMA
SMDC	Special	AEDB-CC	As appropriate/OMA, OPA et al

12. Tenant Funding Responsibility. Responsibility for payment for CC services falls on the receiving tenant. Providers of CC services will vary depending on the type of installation and organizational affiliation of the tenant receiving the service. Table 2 provides a breakout of who provides CC-related services by tenant and installation type. Questions or disagreements concerning tenant funding will be forwarded in accordance with the Installation Services Support Agreement, if any, or forwarded through command channels to ACSIM for dispute resolution.

Table 2. CC-related Services Responsibility

Tenant	Installation Type	Bill Payer	Service Provider
Army	Army	Tenant	Garrison Commander
Army	Other DoD	Tenant	Other DoD Installation Commander
Other DoD	Army	Tenant	Garrison Commander (via ISSA)
Non-DoD	Army	Tenant	Garrison Commander (via ISSA)
Army	Host Nation	Tenant	Army (via various funding)