

# Focus on Military Readiness Means More Construction Work on Military Bases: Are Contractors Ready to Compete and Perform?

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**The United States military is the most powerful warfighting force in world history.**

But Secretary of Defense Jim Mattis made a stark observation in the 2017 National Defense Strategy:

*Without sustained and predictable investment to restore readiness and modernize our military to make it fit for our time, we will rapidly lose our military advantage, resulting in a Joint Force that has*

*legacy systems irrelevant to the defense of our people.*

The problem, in summary, is a lack of readiness.

## **But the Future is "BIG"**

Readiness is not as exciting as futuristic weapons systems or as dramatic as battle. Instead, readiness focuses on the military's more mundane, but essential, ability to train, house troops, repair equipment, and plan for mobilization. Readiness undergirds the core ability of the military to defend the United States. We are seeing a new emphasis on readiness. Significantly, the current President and Congress are actively increasing the military's budget to purchase goods and services, especially those related to the construction of military facilities.

This new construction is required because readiness demands it. For example, many structures at MCAS Cherry Point used for aviator and aircraft ground-support training, repair, and deployment are over 70 years old. Many structures were built for World War II and the Cold War. We now face different enemies, technologies, and strategies. Combat aircraft fleet facility upgrades are essential to meet the raised readiness standard.

In addition, the new F-35 Joint Strike Fighter adds significantly increased technology, infrastructure, and security demands that cannot be met with the current facilities at MCAS Cherry Point and its tenant command, Fleet Readiness Center East ("FRC East"). MCAS Cherry Point will be home for probably 94 F-35 jet fighters. FRC East's role in servicing Air Force, Navy, and Marine Corps variants of the Joint Strike Fighter is essential to achieving the overwhelming lethality required for proper military readiness.

But MCAS Cherry Point and FRC East cannot fulfil their obligations to the readiness standard without new construction. The President has asked Congress to fund the following major construction projects for the federal fiscal year beginning in October 2018:

- \$133,970,000 for a new hangar that will house F-35B Lightning II Joint Strike Fighters for the Marine Corps' Second Marine Air Wing, which is headquartered at MCAS Cherry Point.
- \$106,860,000 to modernize flight line infrastructure such-as electrical, water, and technology services as well as new access points and loading areas for the new hangar.

That's about \$180,000,000 more than MCAS Cherry Point has seen in a single fiscal year for at least the last 20 years. But this new funding is only the beginning of a rapidly accelerating plan to rebuild Cherry Point's aging facilities, roads, and infrastructure. We also expect the following projects to be funded over the next 10 years:

- New streets, parking, security enhancements, and F-35 hangars at MCAS Cherry Point at a cost of around \$600 million.
- New repair hangars, test facilities, and improved facilities at FRC East at of a cost of around \$400 million.

Overall, we expect to see around \$1.2 billion in new construction and facility upgrades at MCAS Cherry Point and FRC East over the next 15 years.

### **A Place for Private Contractors**

Successful construction needs more than just funding. It also needs private contractors who can build, install, and maintain the facilities and infrastructure.

The federal procurement process for construction of Defense Department facilities is a complex undertaking. Once a company enters the procurement process, there are special rules unique to federal contracting that the contractor must understand. Therefore, companies should become familiar with the federal procurement rules before pursuing their first contract. While a comprehensive primer on these rules is beyond the scope of this article, our attorneys handling government contracts are seeing an increase in the use of small business preferences and teaming arrangements. These programs allow small businesses to benefit both from their size status and the competitive advantage of teaming with a larger or more sophisticated company.

### **Incentives: Federal Small Business Preferences**

We have seen a marked increase in contractors interested in qualifying for the small business "set-aside" and other programs available in federal procurements. At the same time, the Defense Department itself is, at least in theory, promoting the set-aside programs. Opportunity abounds for companies who qualify for small business programs.

Unlike most private sector commercial contracts, federal government contracts are used to support certain socio-economic goals. Many of these programs favor small or disadvantaged businesses. The federal government has a specific goal every year for the percentage of contracts given to small and disadvantaged businesses. The following programs are currently the most active for participation and promotion:

- Woman-owned small businesses
- Historically underutilized businesses in certain geographical areas ("HUBZone businesses")
- Veteran-owned small businesses (especially service-disabled veterans)
- Mentor-protégé joint ventures and teaming agreements between large and small businesses, especially those teaming with Section 8(a) disadvantaged businesses.

Construction companies and other contractors who are ready for this wave of new projects will benefit from the increased attention to readiness upgrades. Unprepared companies will lose out on these opportunities. This may not seem a big problem while the economy is strong, but in our experience, contractors who planned for federal work survived and even thrived during the recent Great Recession.

### **Conclusion**

Fortunately, with proper planning, a good business plan, and sound legal advice, there is no reason to be discouraged from beginning or expanding your federal government contracts. Although entering and working within the federal contracting arena can be daunting, several programs assist small and innovative companies with getting and keeping federal contracts. At Ward and Smith, P.A., we have experienced government contract attorneys who can help small, as well as large, businesses navigate the rapidly expanding, and potentially profitable, world of military readiness.

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