



DEPARTMENTS OF THE ARMY AND AIR FORCE

JOINT FORCE HEADQUARTERS-LOUISIANA
OFFICE OF THE ADJUTANT GENERAL
JACKSON BARRACKS
NEW ORLEANS, LOUISIANA 70117

NGLA-TAG

12 September 2013

MEMORANDUM THRU Chief, National Guard Bureau, 1636 Defense Pentagon, Room 1E169, Washington, DC 20301-1636

FOR Secretary of the Army, 1500 Army Pentagon, Washington, DC 20310-1500

SUBJECT: Request for O&M appropriation for disposal of M6 Propellant and Other Explosives at Camp Minden

1. The Louisiana National Guard (LANG) requests O&M funding from the Department of the Army (DA) and the National Guard Bureau (NGB) for the disposal and/or destruction of M6 propellant and other explosives currently located at Camp Minden, Louisiana. The M6 propellant is a hazardous material derived from the demilitarization of the M119A2 Propelling Charge by Explo Systems, Inc. (Explo), a tenant of LANG and the state located at Camp Minden, Louisiana. The excess propellant was produced by Explo under the terms and conditions of its contract with DoD (contract no. W52P1J-10-C-0025).
2. Explo illegally and improperly stored over 10 million pounds of M6 propellant on Camp Minden without LANG knowledge or consent. Explo's actions in this regard violate state and federal law. Explo's illegal activities were discovered by the Louisiana State Police (LSP) during an inspection of their operations after an explosion on 15 October 2012 of a magazine leased to Explo. From November 2012 through May 2013, the LSP, with assistance from the LANG and Explo, repackaged and properly stored the M6 propellant in magazines furnished for this purpose by the LANG at Camp Minden.
3. Over 18 million pounds of M6 propellant and other explosives remain in 98 LANG magazines on Camp Minden. Explo and its principals have been indicted by a Louisiana Grand Jury for violations of state explosives laws. The LSP and the Bureau of Alcohol Tobacco and Firearms have revoked Explo's state and federal explosives handling permits. The U.S. Environmental Protection Agency (EPA) has notified Explo, LANG, and the Army of possible responsibility under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Because Explo does not have the financial resources to remediate the environmental hazard, EPA may have to use "Superfund" dollars to clean up Camp Minden.
4. On 22 July 2013, LANG initiated eviction proceedings against Explo in order to regain control of our leased premises, recoup past due rent and other expenses, and eventually gain lawful control over the M6 propellant and other explosives stored at Camp Minden in order to begin disposal and/or destruction. On 12 August 2013, one day before the eviction hearing, Explo filed for bankruptcy, which has the effect of halting the eviction and delaying our action to take possession of the explosives.

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5. Due to Explo's delay tactics and negligence in failing to properly monitor the explosives, Governor Bobby Jindal issued Proclamation No. 129 BJ 2013 (Encl 1), declaring a State of Emergency at Camp Minden relating to the threat of detonation of the potentially unstable Explo M6 propellant and other explosives at Camp Minden. In conjunction with the emergency declaration, the Governor issued Executive Order No. BJ 2013-14, *Emergency Procedures for Response to Camp Minden Emergency* (Encl 2), to authorize use of streamlined procurement procedures to quickly respond to the emergency. We are leaning forward with an expedited procurement to identify and contract with companies who are qualified to monitor and dispose of the explosives. LANG received bids from two contractors who are on the EPA approved contractor list, Environmental Quality Management, Inc. and CB&I. Enclosure 3 is a copy of the price portion of their cost proposals. I am confident of our ability to execute a contract for disposal prior to the end of the federal fiscal year.
6. LANG and the Louisiana State Police have retained bankruptcy counsel to gain dismissal of the Explo bankruptcy proceeding or, as an alternative, relief from the stay in order to pursue eviction and other administrative remedies. At a status conference on 9 September 2013, the bankruptcy judge in the matter, in off-the-record comments, made it fairly clear that he intends to lift the stay or dismiss the case. A hearing on the motions filed by LANG counsel is set for 18 September 2013. We are very confident of success at the hearing.
7. Regardless of the outcome of the bankruptcy hearing, LANG has several viable options to take immediate and lawful possession of the explosives. First, the declaration of emergency triggers a provision of state law which allows the Governor to commandeer the explosives to enable disposal and/or destruction. Secondly, Louisiana law authorizes LSP to "confiscate the explosives and dispose of them in any manner deemed appropriate to insure the safety of the public." Lastly, the local District Attorney can confiscate the explosives as evidence for the criminal proceeding against Explo and the individuals indicted under state law.
8. Once LANG takes possession of the site and explosives, I intend to initiate remediation and clean-up of the site. I believe that these actions are necessary in order to protect lives and property; however, I need your approval to obtain funding to dispose of the explosives. The State of Louisiana does not have the funds available to cover the costs of disposal. LANG, NGB, and DA all have an interest in ensuring that the EPA does not declare Camp Minden a "Superfund Site", which may result in the abandonment of Camp Minden during the remediation. This will have a tremendously negative effect on several federal and federally-funded activities on Camp Minden, to include the Regional Training Institute, the Youth Challenge Program, and several LANG MTOE units.

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9. In making this request, I am not asking DA to take any legal responsibility for the M6. I am simply requesting O&M funding to make the federal activities on Camp Minden safe to use and to increase the training areas available to those federal activities. This course of action, if approved, will keep the EPA in a passive role rather than a role where they use the superfund to clean up Camp Minden and assign blame to all concerned.

10. It is my firm intent to immediately take lawful possession of the premises and the explosives before the end of this month to enable the safe and orderly disposal or destruction of the explosives.

11. Point of contact for additional information is the undersigned at (504)278-8357.



GLENN H. CURTIS
MG, LAARNG
The Adjutant General

Encls

CF:

The Honorable Bobby Jindal, Governor, State of Louisiana

The Honorable Mary Landrieu, United States Senator

The Honorable David Vitter, United States Senator

The Honorable John Fleming, Representative in Congress

Colonel Michael D. Edmonson, Superintendent, Louisiana State Police

State of Louisiana



EXECUTIVE DEPARTMENT

PROCLAMATION NO. 129 BJ 2013

STATE OF EMERGENCY – CAMP MINDEN

- WHEREAS,** the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake, or other natural or manmade causes, in order to ensure that preparations of this state will be adequate to deal with such emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana;
- WHEREAS,** when the Governor determines that a disaster or emergency has occurred, or the threat thereof is imminent, R.S. 29:724(B)(1) empowers the Governor to declare a state of emergency by executive order or proclamation, or both;
- WHEREAS,** in October 2012, a storage facility leased by the Louisiana Military Department to Explo Systems, Inc. (“Explo”) containing approximately 125,000 pounds of smokeless powder exploded at the state installation located at Camp Minden, Louisiana, resulting in destruction of the storage facility and damage to the adjacent town of Doyline;
- WHEREAS,** as a result of the investigation of Explo’s operations after the explosion, the Louisiana State Police discovered that Explo was improperly storing approximately 10 million pounds of M6 propellant at Camp Minden, causing the evacuation of parts of the town of Doyline for seven days and the closure of large parts of Camp Minden for several months;
- WHEREAS,** over the following several months, the Louisiana State Police, Louisiana National Guard, and Explo packaged and properly stored the improperly stored propellant, thereby reducing the risk posed by the explosive material to the surrounding area;
- WHEREAS,** at the request of the Louisiana State Police and the Louisiana National Guard, the U.S. Army conducted two separate Explosives Safety Visits at Camp Minden, recommending that the materials be disposed of as soon as possible;
- WHEREAS,** Explo has filed bankruptcy without providing for the monitoring, removal, or disposal of approximately 18 million pounds of M6 propellant and other explosives, which pose a continuing threat to the safety of citizens and property of this State in and around Camp Minden;
- NOW THEREFORE I, BOBBY JINDAL,** Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

- SECTION 1:** Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency is hereby declared to exist at Camp Minden as a result of the threat of detonation of potentially unstable M6 propellant and other explosives which threatens the lives and property of the citizens of the State and public property located on Camp Minden.
- SECTION 2:** The Director of the Governor's Office of Homeland Security and Emergency Preparedness and the Adjutant General of the Louisiana National Guard are hereby authorized to undertake any activity authorized by law which they deem appropriate in response to this declaration.
- SECTION 3:** All departments, commissions, boards, agencies and officers of the State, or any political subdivision thereof, are authorized and directed to cooperate in actions the State may take in response to this extremely dangerous situation, including contracting for the disposal of the M6 propellant and other explosives.
- SECTION 4:** This state of emergency extends from Friday, September 6, 2013 to Saturday, October 5, 2013, unless terminated sooner.



IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 6th day of September, 2013.

/s/ Bobby Jindal
GOVERNOR OF LOUISIANA

ATTEST BY
THE GOVERNOR

/s/ Tom Schedler
SECRETARY OF STATE

State of Louisiana

EXECUTIVE DEPARTMENT

EXECUTIVE ORDER NO. BJ 2013 - 14

EMERGENCY PROCEDURES FOR RESPONSE TO CAMP MINDEN EMERGENCY

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency/disaster was declared through Proclamation No. 129 BJ 2013; and

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake, or other natural or man-made causes, to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the State of Louisiana;

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: For procurement and contracting, strict compliance with R.S. 39:1481, *et seq.*, and R.S. 39:1551, *et seq.*, shall not be required. However, all State agencies should comply with the following conditions:

- A. An appointed official within the agency, or the equivalent for elected officials in higher education, must determine that the failure to strictly comply with the statutory restriction is necessary due to the emergency;
- B. A centralized point of contact for each agency must monitor all transactions conducted without strict statutory compliance, maintaining copies of all documentation. Documentation should specify whether the purchase falls into the "emergency" or "permanent" category and whether the purchase relates to the emergency conditions detailed in Proclamation 129 BJ 2013, and all documentation must be maintained and available for audit purposes;
- C. Written competitive quotes and/or offers must be obtained whenever possible, and agencies must take the necessary steps to assess that fair and equitable pricing is being offered;
- D. Performance-based contracting should be used where practical;
- E. State wide contracts should be used where practical;
- F. To the maximum extent possible, such emergency contracts should be only for the duration of the emergency or to allow the agency time to comply with normal competitive bidding requirements if the goods or services will be required for an extended period of time;
- G. Copies of contracts which would otherwise require approval by the Office of Contractual Review or the Office of State Purchasing and the supporting documentation discussed above must be provided to

these agencies within 30 days or sooner, if practical. Additionally, ISIS agencies should enter small purchases into the AGPS/CFMS database as soon as practical. The Office of Contractual Review or the Office of State Purchasing shall review the contracts and documentation to determine compliance with this Executive Order; and

- H. Payments to contractors should be made only after verification that all goods and services meet contract requirements.

SECTION 2: The Inspector General is directed and authorized to monitor those transactions conducted outside the scope of regulatory statutes, orders, rules and regulations to insure that those transactions are directly related to the emergency situation and are prudently handled and, if any inappropriate transactions are noted, those situations shall be reported directly to the Governor.

SECTION 3: All cabinet members, statewide elected officials and department heads are authorized to transfer the directions, job assignments, personnel, and functions of their departments for the purpose of performing or facilitating emergency services as necessary.

SECTION 4: All available resources of state government should be utilized as reasonably necessary to cope with this emergency.

SECTION 5: This Order is effective upon signature and shall remain in effect until amended, modified, terminated or rescinded by the Governor, or terminated by operation of law.



IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 6th day of September, 2013.

/s/ Bobby Jindal
GOVERNOR OF LOUISIANA

**ATTEST BY
THE GOVERNOR**

/s/ Tom Schedler
SECRETARY OF STATE

Estimate Totals

Description	Amount	Totals		
Labor	13,354,719			
Material	3,923,938			
Subcontract	406,423			
Equipment	76,972			
Other	4,138,983			
	<u>21,901,035</u>	21,901,035	100.00	100.00%
Total		21,901,035		

ENCL 3-1



etc.). A separate detailed cost estimate sheet is also presented for the off-site disposal costs that are associated with each individual type of propellant.

As shown in *Figure 10*, the total duration for the project for on-site disposal is 275 days with a total estimated cost of \$20,634,240.

	Costs	Days	Total Weeks	Total Months	Total Years
Premobe Activities		21	3	.75	
Mobilization and Site Setup	396,736	18	1.4	.64	
109,000 lbs M30 propellant	95,133	2	.28	.07	
660,000 lbs Nitrocellulose	1,164,464	22	3.1	.78	
15 million lbs of M6 propellant	16,465,901	176	25.1	6.28	
133,00 lbs Tritonal Residue 2-15	200,017	16	2.28	.57	
2.2 million lbs Tritonal Mixture	1,703,548	19	2.7	.68	
3,000 lbs Red/Pink Water	40,814	1	.14	.03	
700 lbs TNT residue/plastic/tar paper	46,154	1	.14	.03	
128 lbs Black Powder	8,129	.5	.07	.015	
Ammonium Picrate	8,129	.5	.07	.015	
321,000 lbs Clean Burning Igniter	210,864	3	.43	.11	
Decon Equipment	123,148	10	1.43	.36	
Restoration and Demobe	165,108	6	.86	.21	
Final Reporting and Closeout	6,095	7	1	.25	
Total on-site disposal costs	20,634,240	303	42.0	10.79	.81

Figure 10. Summary of Durations and On-site Disposal Costs

Opportunities for Cost Savings

Given the large and challenging scope of this project, EQ has evaluated and considered various real-world cost savings opportunities for this potential removal action. Several opportunities and approaches to save costs have been described throughout our work plan. During development of our work plan we have focused primarily on how to perform this project as cost efficiently as possible, while at the same time ensuring that safety is never compromised. As the on-site operations progress, there will be experience gained in regards to work sequencing and optimization and the effective selection and use of equipment and materials that will provide more opportunities for cost savings. For the initial purposes of fulfilling the requirements of the TDD, we have identified the following opportunities for cost savings:

- ◆ Once a magazine is opened for removal, "all" of the propellant in that magazine will be moved to the burn pad, irrespective of the specific types of propellant encountered in that magazine. Should a magazine contain mixed propellants, each different type of propellant

ENCL 3-2