

RULES AND REGULATIONS

12:01 a. m. P. s. t., May 5, 1957, and ending at 12:01 a. m., P. s. t., May 12, 1957, is hereby fixed as follows:

- (i) District 1: 6,510 cartons;
- (ii) District 2: 388,740 cartons;
- (iii) District 3: Unlimited movement.
- (2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: May 2, 1957.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Marketing Service.

[F. R. Doc. 57-3689; Filed, May 3, 1957;
9:18 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

[1957 C. C. C. Grain Price Support Bulletin 1,
Supp. 1, Barley]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1957—CROP BARLEY LOAN AND PURCHASE AGREEMENT PROGRAM

Correction

In F. R. Doc. 57-3400, appearing at page 2971 of the issue for Saturday, April 27, 1957, the following changes should be made:

1. In the list of support rates under § 421.2283 (c), the two items for Pope County in Minnesota should read:

Polk95
Pope99

2. In § 421.2283 (c), Lamp County in Texas should read "Lamb".

3. In the heading for paragraph (b) of § 421.2286, the word "bonus" should read "loans".

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

[Supp. 3]

PART 52—REPAIR STATION CERTIFICATES

EDITORIAL CORRECTIONS

The purpose of this supplement is to revise the titles for district offices formerly entitled Aviation Safety District Offices and for personnel assigned to such offices, in accordance with Department of Commerce Notice, Amendment 13, published in 22 F. R. 989, February 16, 1957. These revisions do not impose any additional burden upon interested persons, and no useful purpose would be served by compliance with the notice, procedures, and effective date provisions

of section 4 of the Administrative Procedure Act. Therefore, compliance is unnecessary and is not required.

The following editorial corrections are hereby adopted:

1. Section 52.5-1 (a) is amended by changing the words "Aviation Safety District Office" in the second sentence to read "Flight Operations and Airworthiness District Office."

2. The note to § 52.5-1 (a) is amended by changing the words "Aviation Safety Agent" in the first sentence to read "Flight Operations and Airworthiness Inspector"; "agent" in the second sentence to read "inspector"; and "Aviation Safety District Office" in the second sentence to read "Flight Operations and Airworthiness District Office."

3. Section 52.7-1 (a) is amended by changing the words "Aviation Safety Agent" to read "Flight Operations and Airworthiness Inspector."

4. Section 52.8-1 (a) (1) is amended by changing the words "Aviation Safety Agent" in the second sentence to read "Flight Operations and Airworthiness Inspector"; "agent's letter" in the third sentence to read "inspector's letter."

5. Section 52.8-1 (a) (2) is amended by changing the words "inspecting agent" in the third sentence to read "inspector."

6. Section 52.10-1 is amended by changing the words "Aviation Safety Agent" in the first sentence to read "Flight Operations and Airworthiness Inspector"; "agent" in the third sentence to read "inspector."

7. Section 52.12-1 is amended by changing the words "Aviation Safety Agent" in the first and second sentences to read "Flight Operations and Airworthiness Inspector."

8. Section 52.12-2 is amended by changing the words "An Aviation Safety Agent" to read "A Flight Operations and Airworthiness Inspector."

9. Section 52.20-1 is amended by changing the word "agent" in the first sentence to read "inspector."

10. Section 52.22-1 (d) is amended by changing the words "Aviation Safety Agent" in the fourth sentence to read "Flight Operations and Airworthiness Inspector."

11. Section 52.24-1 (c) is amended by changing the words "Aviation Safety Agent" in the first sentence to read "Flight Operations and Airworthiness Inspector."

12. Section 52.30-1 (a) is amended by changing the word "agent" in the seventh sentence to read "inspector."

13. Section 52.47-1 (a) is amended by changing the words "Aviation Safety Agent" in the fifth sentence to read "Flight Operations and Airworthiness Inspector."

14. Section 52.47-1 (c) is amended by changing the words "Aviation Safety Agent" in the second sentence to read "Flight Operations and Airworthiness Inspector."

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This supplement shall become effective May 15, 1957.

[SEAL]

WILLIAM B. DAVIS,
Acting Administrator
of Civil Aeronautics.

APRIL 26, 1957.

[F. R. Doc. 57-3639; Filed, May 3, 1957;
8:45 a. m.]

[Supp. 3]

PART 53—MECHANIC SCHOOL CERTIFICATES

EDITORIAL CORRECTIONS

The purpose of this supplement is to revise the titles for district offices formerly entitled Aviation Safety District Offices and for personnel assigned to such offices, in accordance with Department of Commerce Notice, Amendment 13, published in 22 F. R. 989, February 16, 1957. These revisions do not impose any additional burden upon interested persons, and no useful purpose would be served by compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act. Therefore, compliance is unnecessary and is not required.

The following editorial corrections are hereby adopted:

1. Section 53.5-1 (a) is amended by changing the words "Aviation Safety District Office" to read "Flight Operations and Airworthiness District Office."

2. Section 53.7-1 is amended by changing the words "Aviation Safety District Office" to read "Flight Operations and Airworthiness District Office."

3. Section 53.8-1 (a) (1) is amended by changing the words "Aviation Safety Agent" in the second sentence to read "Flight Operations and Airworthiness Inspector"; and the words "agent's letter" in the third sentence to read "inspector's letter."

4. Section 53.8-1 (a) (2) is amended by changing the word "agent" in the first sentence to read "inspector."

5. Section 53.10-1 is amended by changing the words "Aviation Safety Agent" in the first sentence to read "Flight Operations and Airworthiness Inspector."

6. Section 53.11-1 is amended by changing the words "Aviation Safety Agent" in the first, second and fourth sentences to read "Flight Operations and Airworthiness Inspector."

7. Section 53.11-2 is amended by changing the words "An Aviation Safety Agent" to read "A Flight Operations and Airworthiness Inspector."

8. Section 53.20-1 is amended by changing the word "agent" to read "inspector."

9. Section 53.26-1 is amended by changing the word "agent" in the second sentence to read "inspector."

10. Section 53.58-1 is amended by changing the words "Aviation Safety District Office" to read "Flight Operations and Airworthiness District Office."

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This supplement shall become effective May 15, 1957.

[SEAL] WILLIAM B. DAVIS,
Acting Administrator of
Civil Aeronautics.

APRIL 26, 1957.

[F. R. Doc. 57-3638; Filed, May 3, 1957;
8:45 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

Subchapter A—General

PART 9—COLOR CERTIFICATION

COLOR-CERTIFICATION REGULATIONS; FD&C YELLOW NOS. 1, 2, 3, AND 4

In the matter of amending the color-certification regulations with respect to FD&C Yellow No. 1, FD&C Yellow No. 2, FD&C Yellow No. 3, and FD&C Yellow No. 4:

A notice was published in the FEDERAL REGISTER of January 24, 1957 (22 F. R. 478), setting forth proposals to delete from § 9.3 (a) the names of the foregoing straight colors and the respective specifications therefor, and, upon appropriate renaming, to insert the new names of such colors and their specifications in § 9.5 (a).

After due consideration of the comments and suggestions received and other relevant and reliable information, it is concluded that the coal-tar colors FD&C Yellow No. 1, FD&C Yellow No. 2, FD&C Yellow No. 3, and FD&C Yellow No. 4 are not harmless and suitable for use within the meaning of sections 406 (b), 504, and 604 of the Federal Food, Drug, and Cosmetic Act in coloring food or in coloring drugs or cosmetics intended for other than external application. Therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 406 (b), 504, 604, 701, 52 Stat. 1046, 1049, 1052, 1055, as amended, 70 Stat. 919; 21 U. S. C. 346 (b), 354, 364, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F. R. 1045): It is ordered, That the regulations for the certification of coal-tar colors (21 CFR 9.3, 9.5; 21 CFR, 1956 Supp., 9.5) be amended as indicated below:

1. Section 9.3 *List of straight colors and specifications for their certification for use in foods, drugs, and cosmetics* is amended by deleting from paragraph (a) the names of the following straight colors and the respective specifications therefor:

FD&C Yellow No. 1.
FD&C Yellow No. 2.
FD&C Yellow No. 3.
FD&C Yellow No. 4.

2. Section 9.5 *List of straight colors and specifications for their certification for use in externally applied drugs and cosmetics* is amended by adding to paragraph (a) the following:

EXT. D&C YELLOW NO. 7

SPECIFICATIONS

Disodium salt of 2,4-dinitro-1-naphthol-7-sulfonic acid.

Volatile matter (at 135° C.), not more than 10.0 percent.

Water-insoluble matter, not more than 0.2 percent.

Ether extracts, not more than 0.1 percent. Chlorides and sulfates of sodium, not more than 5.0 percent.

Mixed oxides, not more than 1.0 percent.

Martius yellow, not more than 0.03 percent.

Pure dye (as determined by titration with titanium trichloride), not less than 85.0 percent.

EXT. D&C YELLOW NO. 8

SPECIFICATIONS

Dipotassium salt of 2,4-dinitro-1-naphthol-7-sulfonic acid.

Volatile matter (at 135° C.), not more than 10.0 percent.

Ether extracts, not more than 0.1 percent. Chlorides and sulfates of potassium, not more than 5.0 percent.

Mixed oxides, not more than 1.0 percent.

Martius yellow, not more than 0.03 percent.

Pure dye (as determined by titration with titanium trichloride), not less than 85.0 percent.

EXT. D&C YELLOW NO. 9

SPECIFICATIONS

1-Phenylazo-2-naphthylamine.

Volatile matter (at 80° C.), not more than 0.2 percent.

Sulfated ash, not more than 0.3 percent.

Water-soluble matter, not more than 0.3 percent.

Matter, insoluble in carbon tetrachloride, not more than 0.5 percent.

Intermediates, not more than 0.05 percent.

Pure dye (as determined by titration with titanium trichloride), not less than 99.0 percent.

Melting point, not less than 99° C.

EXT. D&C YELLOW NO. 10

SPECIFICATIONS

1-o-Tolylazo-2-naphthylamine.

Volatile matter (at 80° C.), not more than 0.2 percent.

Sulfated ash, not more than 0.3 percent.

Water-soluble matter, not more than 0.3 percent.

Matter, insoluble in carbon tetrachloride, not more than 0.5 percent.

Intermediates, not more than 0.05 percent.

Pure dye (as determined by titration with titanium trichloride), not less than 99.0 percent.

Melting point, not less than 120° C.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW, Washington 25, D. C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, shall specify with particularity the provisions of the order deemed objectionable and the grounds for the objections, and shall request a public hearing on the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. The amendment of the color-certification regulations (§§ 9.3 and

9.5) promulgated by this order shall become effective 90 days after publication of this order in the FEDERAL REGISTER, except any provisions that may be stayed by the filing of exceptions thereto. Notice of the filing of objections, or lack thereof, will be announced by publication in the FEDERAL REGISTER.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interpret or apply secs. 406, 504, 52 Stat. 1046, 1049, 1052; 21 U. S. C. 346, 354, 364.)

Dated: April 30, 1957.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 57-3648; Filed, May 3, 1957;
8:47 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

Subchapter B—Bureau of the Public Debt

[1957 Dept. Circular 905, Revised]

PART 332—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES H

Correction

In F. R. Doc. 57-3348, appearing at page 2949 of the issue for Friday, April 26, 1957, § 332.11 (c) should be corrected so that the sentences now reading "Any form United States, as the case may be. Checks will be accepted, subject to collection." will read "Any form of exchange, including personal checks, will be accepted, subject to collection."

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter G—Procurement

PART 591—PROCUREMENT BY FORMAL ADVERTISING

PART 598—PATENTS AND COPYRIGHTS

PART 602—GOVERNMENT PROPERTY

PART 605—PROCUREMENT FORMS

PART 606—SUPPLEMENTAL PROVISIONS

MISCELLANEOUS AMENDMENTS

1. Revise paragraph (e) of § 591.201 and add new §§ 591.302, 591.302-1, and 591.302-2, as follows:

§ 591.201 *Preparation of forms.* * * *

(e) *Delivery clause.* (1) The time of delivery is a material requirement of a procurement and must be clearly set forth in the invitation.

(2) Each Invitation for Bids will contain a delivery clause designed to meet the requirements of the particular procurement and will be prepared in conformity with the following:

(i) Delivery requirements stated in the invitation shall be as realistic of attainment as possible. Contracting Officers will question any delivery requirement which appears to be unrealistic and make appropriate adjustments, in

coordination with the initiator of the requirement, prior to issuing the invitation.

(ii) The invitation will state the time limitations on delivery within which delivery offers will be considered responsive to the invitation. Particular care will be taken to insure that the Government's latest acceptable delivery time is clearly set forth. Bidders shall be advised that:

(a) Bids offering delivery within the acceptable time limits stated will be considered responsive to the delivery requirements of the invitation and will be evaluated equally, and

(b) Bids offering delivery beyond these limits will be rejected as nonresponsive.

(3) Consideration will be given to incorporating the liquidated damages clause (§ 7.105-5 of this title) in IFB's in cases where delay in delivery may cause damage to the Government in an indeterminable amount.

§ 591.302 Time of submission. Bidders shall submit their bids so as to reach the designated office not later than the specified time for opening. Bids received thereafter are late bids. Late bids shall be considered (a) if received before award, and (b) if it is determined that the failure to arrive on time was due solely to delay in the mails for which the bidder was not responsible; otherwise, they shall be held unopened until award has been made, and then returned to the bidder.

§ 591.302-1 Determinations concerning late bids. Determinations concerning late bids shall be made in writing by the contracting officer, or a duly authorized representative for that purpose. As a rule, the date and hour shown on the cancellation stamp affixed by the post office or by an approved metering device shall be considered as the time of mailing. However, (a) as to registered and certified mail, the date and hour of mailing when not shown on the cancellation stamp shall be obtained from the postal authorities indicated below; and (b) as to nonregistered and noncertified mail, when the date of mailing cannot be determined by inspection of the envelope the bid shall not be considered for award; and when the stamp shows the date but not the hour of mailing, the bid shall be considered as having been mailed at the last minute of the date shown. Information necessary for the determination concerning the date and hour of mailing registered and certified mail as required by paragraph (a) of this section and the normal time for mail delivery, shall be obtained from the Postmaster, Superintendent of Mails, or a duly authorized representative for that purpose, of the post office serving the purchasing activity. When time permits and the Contracting Officer deems it advisable, such information shall be obtained in writing.

§ 591.302-2 Records. The contract file shall include with respect to each late bid: (a) The date and hour of mailing (determined as provided in § 591.302-1) and date and hour of receipt by the purchasing activity; (b) the determination as to whether the late bid should or should not be considered, and

the facts supporting it; (c) the disposition of the bid; and (d) the envelope of any late bid that is considered for award.

2. Revise paragraph (d) of § 591.403, § 591.405-50, paragraph (a) of § 591.407, and § 591.452, as follows:

§ 591.403 Rejection of bids. * * *

(d) *Failure of bids to conform to delivery requirements.* Stated delivery requirements will be considered as a material requirement of a procurement. Any bid which fails to conform to the stated delivery schedule, or authorized deviations thereto as set forth in the Invitation for Bids, will be rejected as a non-responsive bid.

§ 591.405-50 Distribution of administrative determinations and Comptroller General decisions—(a) To the Deputy Chief of Staff for Logistics, Department of the Army. (1) The Chief of Engineers, the Chief of Ordnance, and the Quartermaster General will furnish to the Chief, Contracts Branch, Office of the Deputy Chief of Staff for Logistics, by the 10th of each month the following information relative to each administrative determination made during the preceding calendar month under the delegation of authority referred to in § 591.405-2 (a): (i) Copy of the Contracting Officer's statement described in § 2.405-2 (e) (5) of this title; (ii) copy of the determination referred to in § 2.405-2 (a) of this title; and (iii) such additional data as are material to the determination.

(2) Heads of Procuring Activities will furnish to the Chief, Contracts Branch, Office of the Deputy Chief of Staff for Logistics, by the 10th of each month the following information relative to each administrative determination made during the preceding calendar month under the delegation of authority referred to in § 591.405-3 (b): (i) Copy of the Contracting Officer's statement described in § 591.405-3 (a) (2); (ii) copy of the determination referred to in § 591.405-3 (b) (2); and (iii) such additional data as are material to the determination.

(b) *To Disbursing Officer.* The Contracting Officer will furnish a copy of the administrative determination, or a copy of the decision of the Comptroller General, if any, respecting a mistake in bid, to the Disbursing Officer to support any payment made or to be made by him.

(c) *To General Accounting Office with Standard Form 1036.* (§ 591.406-5.)

(d) *To contract files.* (§ 591.203 and § 592.308 of this subchapter.)

§ 591.407 Information to bidders—(a) Unclassified awards.

In the case of all unclassified formally advertised contracts, the purchasing office will notify unsuccessful bidders of the fact that their bids were not accepted, and extend the appreciation of the purchasing office for the interest the unsuccessful bidder has shown in submitting a bid. Should additional information be sought, purchasing offices will either provide the unsuccessful bidder with the name and address of the successful bidder, together with the contract price, or inform the inquirer that a copy of the Abstract of Bids is available for inspection at the

purchasing office or at the Procurement Information Center, Office of the Deputy Chief of Staff for Logistics, Department of the Army, Old Post Office Building, Twelfth Street and Pennsylvania Avenue, NW., Washington 25, D. C., in the event this latter location is more convenient from a geographical viewpoint than the purchasing office. (§ 591.450 (c).)

§ 591.452 Protest. Protests or objections, raised at any time by any party having a legitimate interest, to actions taken or to be taken by a Contracting Officer in connection with a particular procurement, will be processed in accordance with the following instructions:

(a) Where a protest is made prior to making an award, the award will not be made pending resolution of the protest, except that awards may be made in such cases where the items to be procured are urgently required, delivery will be unduly delayed by failure to make award promptly, or it is otherwise in the best interest of the Government. The Contracting Officer will document the contract file in sufficient detail to substantiate the need for an immediate award, and will advise the protesting party in writing of such decision to proceed.

(b) Every effort will be made to resolve protests at the lowest possible level. However, if in the opinion of the Contracting Officer, or higher echelons, it is considered desirable and in the best interests of the Government, the protest will be submitted to higher authority for resolution.

(c) Where the person making the protest has indicated he intends to carry the protest to a certain higher level of authority, the Contracting Officer will submit the protest, through channels, to the indicated level of authority for final resolution.

(d) Where a protest affects another bidder, a contractor, or any other party having a legitimate interest, the Contracting Officer normally will give prompt notice of the protest to such parties in order that they may take appropriate action on their own behalf. The extent of the information to be furnished to affected parties will require exercise of judgment on a case by case basis, giving due weight to salient aspects of the particular matter. These aspects may include, but are not necessarily limited to, legal considerations, the interest of the Government, equitable consideration for the interests of affected parties, and mitigation of losses or other injuries to any and all parties concerned. It must be emphasized to the recipients of such a notice of protest that the notice in no way relieves them of any obligations under a contract or otherwise, but is primarily intended to afford them a fair opportunity to be heard by, and to present evidence for the consideration of, the agency which will render a decision in the case.

(e) Protests submitted for final resolution to levels of authority higher than the head of a Procuring Activity will be forwarded to the Deputy Chief of Staff for Logistics, Department of the Army, ATTN: Chief, Contracts Branch.

(f) In submitting protests to higher authority, the Contracting Officer will

forward a completely documented case, including the following:

(1) A signed statement from the person making the protest setting forth the complete facts on which the protest is based together with any additional supporting evidence.

(2) A signed statement, when relevant, from other persons or bidders affected by or involved in the protest, setting forth the complete facts with respect to their position in the matter, together with any additional supporting evidence.

(3) A copy of the bid of the protesting bidder and a copy of the bid of the bidder to whom award has been made or who is being considered for the award, if relevant to the protest.

(4) A copy of the invitation for bids including, where practicable, pertinent specifications, if relevant to the protest.

(5) A copy of the abstract of bids.

(6) Any other documents which are relevant to the protest.

(7) A signed statement from the Contracting Officer setting forth his findings, actions, and recommendations in the matter, together with any additional information and evidence deemed to be necessary in determining the validity of the protest.

(g) Protest cases submitted by Contracting Officers to higher levels of authority for forwarding to the Chief, Contracts Branch, Office of the Deputy Chief of Staff for Logistics, Department of the Army, will contain the recommendations of such intervening levels of authority through which the protest is transmitted.

(h) Protests filed with echelons of a Procuring Activity other than the Contracting Officer will be promptly forwarded to the Contracting Officer for processing in accordance with this subchapter.

(i) A notice similar to that specified in paragraph (d) of this section will be furnished the affected party where (1) an inquiry from The Comptroller General indicates a complaint against a specific procurement and implies possible intervention therein by The Comptroller General, or (2) advance information is received that formal protest has been filed with any level of the chain of command, or with The Comptroller General. Advance information is frequently received by procurement echelons in the form of information copies of formal protest letters addressed to the President, Secretary of Defense, Comptroller General, etc.

3. In § 598.105, revise paragraph (c), and revise § 598.105-51, as follows:

§ 598.105 *Processing of infringement claims.* * * *

(c) *Title 10, U. S. Code, section 2386.* Title 10 U. S. Code, Section 2386, provides that:

Funds appropriated for a military department available for making or procuring supplies may be used to acquire any of the following if the acquisition relates to supplies or processes produced or used by or for, or useful to, that department:

(1) Copyrights, patents, and applications for patents.

(2) Licenses under copyrights, patents and applications for patents.

(3) Designs, processes, and manufacturing data.

(4) Releases, before suit is brought, for past infringement of patents.

In connection with acquisition of releases for past infringement of patents mentioned in the quoted language, the basic statutory provision dealing with infringement by or for the Government is Title 28, U. S. Code, Section 1498. This section provides that whenever an invention described in and covered by a patent of the United States is, without license or other right, used or manufactured by the United States, or by any person, firm, or corporation for the United States and with its authorization or consent, the patent owner's remedy shall be by suit against the United States in the Court of Claims for the recovery of his reasonable and entire compensation for such use or manufacture. The statute also provides that a Government employee shall have the right to bring such a suit against the Government except where he was in a position to order, influence, or induce use of the invention by the Government. The statute also provides that it shall not confer a right of action on any patentee or his assignee with respect to any invention discovered or invented by a person while in the employment or service of the United States, where the invention was related to the official functions of the employee, in cases in which such functions included research and development, or in the making of which Government time, materials, or facilities were used.

§ 598.105-51 *Authority*—(a) *Acquisition of releases of past infringement and licenses.* By virtue of 10 U. S. C. 2386 (text set forth in § 598.105 (c)), the Department of the Army is authorized to acquire certain patents and other rights. The following are hereby authorized to make acquisitions in accordance with 10 U. S. C. 2386:

(1) Deputy Chief of Staff for Logistics.

(2) Chief, Procurement Division, Office of the Deputy Chief of Staff for Logistics.

(3) Chief, Contracts Branch, Office of the Deputy Chief of Staff for Logistics.

(4) Chiefs of technical services.

(5) Designees of any of the foregoing.

(b) *Claims under Mutual Security Acts.* The chiefs of the technical services and others have been delegated authority to enter into agreements in settlement of claims asserted under section 517 of the Mutual Security Act of 1951, and section 506 of the Mutual Security Act of 1954.

4. Revise § 602.1710 to read as follows:

§ 602.1710 *Reports and inspection.* The Property Administrator shall conduct periodic inspections of the physical condition of Government property in the possession of the Contractor to determine the adequacy of maintenance, repair, protection and preservation of the Government property. He shall report promptly, in writing, to the Contracting Officer any failure of the Contractor to properly maintain, repair, protect, or preserve any of the Government property in the Contractor's possession.

[201]

5. Part 605 is revised to read as follows:

PART 605—PROCUREMENT FORMS

Sec.

605.000 Scope of part.

Subpart A—Forms for Advertised Supply Contracts

605.101 Separate award type (Standard Forms 30, 32, 26, and 36)

605.101-1 General.

605.101-2 Conditions for use.

605.102 Combination type (Standard Form 33).

605.102-1 General.

605.102-2 Conditions for use.

Subpart B—Forms for Negotiated Procurement

605.202 Negotiated contracts (DD Forms 351, 351-1, and 351-2).

605.202-50 General.

605.203 Request for proposal and acceptance (DD Forms 746, 746-1, and 746-2).

605.203-1 General.

605.204 General provisions; cost-reimbursement supply contract (DD Form 748).

605.205 General provisions; fixed-price contracts (Standard Form 32).

Subpart C—Purchase and Delivery Order Forms

605.301 Receipt for cash—subvoucher (Standard Form 1165).

605.302 Purchase order—invoice—voucher (Standard Form 44).

605.303 Order for supplies or services (DD Form 1155).

605.303-3 Forms superseded.

605.304 Blanket purchase order.

Subpart D—Construction Contract Forms

605.401 Standard Forms 20, 21, 22, 23, and 23a.

605.401-1 General.

605.401-50 Engineer construction contract forms.

Subpart E—Special Contract and Order Forms

605.501 Negotiated utility service contract forms.

605.502 Negotiated contract form for stevedoring services (DD Form 674).

605.503 Master contract for repair and alteration of vessels (DD Forms 731 and 731-1).

605.503-1 General.

605.504 Order for paid advertisements (Standard Forms 1143 and 1144).

605.504-1 Request for authority to advertise (DA Form 192).

605.506 Communication service authorization (DD Form 428).

605.550 Lease agreement; Government-owned personal property.

605.551 Letter contract.

605.551-1 Cost-type.

605.551-2 Fixed-price type.

605.552 Government's order and contractor's acceptance (DA Form 47).

605.553 Academic instruction contracts.

605.553-1 Contract for academic instruction (DA Form 357).

605.553-2 Order form to contract for academic instruction (DA Form 358).

605.553-3 Contract for off-duty academic instruction (DA Form 588).

605.553-4 Order form to contract for off-duty academic instruction (DA Form 589).

605.554 Contract for sale of property (Negotiated Sale).

605.555 Service order for household goods (DD Form 1164).

Subpart F—Forms for Coordinated Procurement

605.601 Military interdepartmental purchase requests (DD Form 448, 448-1).

Subpart G—Contract Termination Forms

605.700-50 Contract termination forms.

RULES AND REGULATIONS.

Subpart H—Miscellaneous Forms

- Sec.
 605.801 Statement and certificate of award (Standard Form 1036).
 605.802 Statement on contingent fees (Standard Form 119).
 605.804 U. S. Government tax exemption certificate (Standard Form 1094 Revised).
 605.804-50 Affidavit as proof of shipments to possessions of the United States.
 605.805 Bond forms.
 605.807 Individual procurement action (DD Form 350).
 605.810 Bidders' mailing list application (Standard Form 129).
 605.810-50 Source of supply.
 605.811 Security requirements check list (DD Form 254).
 605.850 Security agreement (DD Form 441).
 605.851 Abstract of bids.
 605.851-1 Short form (DA Form 14).
 605.851-2 Long form (DA Form 29).
 605.852 Monthly summary of procurement actions (DA Form 377).
 605.853 Purchase request and commitment form (DA Form 14-115).
 605.854 Request for planning action (DD Form 403), desired production and production schedule work sheet (DD Form 405), and tentative schedule of production and request for allocation (DD Form 406).
 605.855 Open-end contract information circulars (DA Form 1525).
 605.856 Necessity certificate (DPAL-101).
 605.857 Report of excess personal property (Standard Form 120).
 605.858 Shipment and receipt of Government-furnished property (Eng. Form 290).
 605.859 Reporting under Title II, First War Powers Act (DA Form 1763-R, Claims Received) (DA Form 1764-R, Disposition of Claims).
 605.860 Contractor's request for progress payments (DD Form 1195).
 605.861 Data on proposed procurement action (DA Form 1877).
 605.862 Department of Labor Forms PC 12 and PC 13.

Subpart O—General Policy

- 605.1501 Applicability.
 605.1502 Contract clauses.
 605.1502-1 Modifications.
 605.1502-2 Incorporation by reference of general provisions (Standard Form 32) and other general provisions.
 605.1503 Deviations from approved forms.
 605.1503-1 General.
 605.1503-2 Local reproduction.
 605.1503-3 Translations.
 605.1504 Procuring activity contract forms.
 605.1505 Supply of forms.
 605.1505-1 Stockage objective.
 605.1505-2 Forms stocked by Adjutant General Publications Centers.
 605.1505-3 Cut sheet forms.
 605.1505-4 Multiple part manifold forms.

Subpart P—Letter Forms and Agreements

- 605.1601 Forms for determinations and findings.
 605.1602 Summary of negotiations and contract award data.
 605.1603 Advance payments.
 605.1604 Determinations and exemptions under the Buy American Act.
 605.1605 Form letter for acknowledging receipt of a notice of infringement.
 605.1606 Patent license and release contract.
 605.1607 Form letter for acknowledging receipts of communication from invention owner.
 605.1608 Patent license and release contract—gratuitous grants.
 605.1609 Consent of surety—contract modification.
 605.1610 Assignment to Government of insurance premiums.

Sec.

- 605.1611 Letter form for transmitting non-discrimination posters.
 605.1612 Contractor's application form for relief under Title II, First War Powers Act, 1941, as amended.
 605.1613 Contractor application for requesting formalization of informal commitment.
 605.1614 Form for joint determinations and small business determinations.

Subpart Q—Revision of Procurement Forms (Temporary)

- 605.1700 Scope.
 605.1701 General.
 605.1701-1 Existing stocks of forms.

AUTHORITY: §§ 605.000 to 605.1701-1 issued under sec. 3012, 70A Stat. 157; 10 U. S. C. 3012. Interpret or apply 70A Stat. 127; 10 U. S. C. 2301-2314.

§ 605.000 Scope of part. This part and Part 16 of this title set forth instructions for use of approved contract forms within the Army Establishment. (§ 596.050 of this subchapter.) Major oversea commanders are authorized to make such deviations in the clauses contained in the forms as may be deemed necessary to accomplish their procurement missions provided, that such deviations do not result in violation of existing laws, Executive Orders, decisions of The Comptroller General, or such other rules or regulations which would render the contract illegal.

SUBPART A—FORMS FOR ADVERTISED SUPPLY CONTRACTS

§ 605.101 Separate award type (Standard Forms 30, 32, 26, and 36).

§ 605.101-1 General. (a) Subject to such instructions as may be issued by the Head of the Procuring Activity concerned, use of the Separate Award Type (long-form method) or the Combination Type (short-form method) (§ 605.102) for a particular procurement is discretionary with the Contracting Officer. Heads of Procuring Activities should standardize, to the extent practicable, on use of either the Separate Award Type or the Combination Type method.

(b) The statement of availability of funds and citation of the appropriation allotment will be inserted in the "Accounting and Appropriation Data" block of Standard Form 31. Invitations for bids which will result in indefinite quantity contracts will contain a statement in the "Accounting and Appropriation Data" block to the effect that certification of availability of funds will be made on delivery orders issued under the contract.

(c) Additional general provisions may be incorporated in accordance with provisions of § 605.205.

§ 605.101-2 Conditions for use. (a) The invitation and Bid (Standard Form 30) and the Schedule (Standard Form 31) shall be prepared in accordance with the provisions of § 2.201 of this title and § 591.201 of this subchapter.

(b) Standard Form 32 (General Provisions) may be incorporated by reference. (§ 605.1502-2.)

§ 605.102 Combination type (Standard Form 33).

§ 605.102-1 General. (a) The statement of availability of funds and citation of the appropriation allotment, will be included in the block titled "Accounting and Appropriation Data."

(b) Standard Form 32 (General Provisions) may be incorporated by reference. (§ 605.1502-2.)

(c) Additional general provisions may be incorporated in accordance with provisions of § 605.205.

(d) Standard Form 36 (Continuation Sheet) will be used to provide additional space, if the award portion of Standard Form 33 is not sufficient.

§ 605.102-2 Conditions for use. (a) The invitation for Bids and Schedule portions of Standard Form 33 shall be prepared in accordance with provisions of § 2.201 of this title and § 591.201 of this subchapter.

(b) Standard Form 32 (General Provisions) may be incorporated by reference. (§ 605.1502-2.)

SUBPART B—FORMS FOR NEGOTIATED PROCUREMENT

§ 605.202 Negotiated contracts (DD Forms 351, 351-1, and 351-2).

§ 605.202-50 General. (a) Standard Form 36 (Continuation Sheet) may be used to provide additional space if DD Form 351-1 (Schedule Page) is not sufficient.

(b) Standard Form 32 (General Provisions) will be attached (§ 16.205 of this title).

(c) Additional general provision may be incorporated in accordance with provisions of § 605.205.

§ 605.203 Request for proposals, proposal and acceptance (DD Forms 746, 746-1, and 746-2).

§ 605.203-1 General. (a) Standard Form 32 (General Provisions) may be incorporated by reference. (§ 605.1502-2.)

(b) Additional general provisions may be incorporated in accordance with the provisions of § 605.205.

§ 605.204 General provisions; cost-reimbursement supply contract (DD Form 748). Additional general provision may be incorporated in the same manner as prescribed for incorporating additional general provisions in fixed-price supply contracts (§ 605.205).

§ 605.205 General provisions; fixed-price contracts (Standard Form 32). General provisions, in addition to those contained in Standard Form 32, will be added to the contract as required by Subchapter A, Chapter I of this title and this subchapter, or other directives, with appropriate reference made in the Schedule. Any provision in Standard Form 32 inconsistent with such required clause will be deleted by appropriate reference in the "Alterations in Contract" clause (§ 7.105-1 of this title). Other contract provisions may also be added, provided such provisions are not inconsistent with those in Standard Form 32 or those required by the above regulations. In the event that a change or additional provision, which is inconsistent with the Standard Form 32 or required clauses

mentioned above and which is neither required nor authorized by Subchapter A, Chapter I of this title, or this subchapter, is deemed to be in the best interests of the Government, a request for authority to make such a change or incorporate such additional provision in a contract must be submitted for approval to the Deputy Chief of Staff for Logistics, Department of the Army, Washington 25, D. C., ATTN: Chief, Contracts Branch.

SUBPART C—PURCHASE AND DELIVERY ORDER FORMS

§ 605.301 *Receipt for cash-subvoucher (Standard Form 1165).* Standard Form 1165 shall be used in connection with procurements by the imprest fund (petty cash) method in accordance with § 3.604 of this title and § 592.604 of this subchapter.

§ 605.302 *Purchase order-invoice-voucher (Standard Form 44).* Standard Form 44 is authorized for use to accomplish small purchases in accordance with § 3.605 of this title and § 592.605 of this subchapter.

§ 605.303 *Order for supplies or services (DD Form 1155).*

§ 605.303-3 *Form superseded.* The Department of the Army has been granted a deviation to continue use of DD Form 738-1, in lieu of DD 1155-1, until present stocks of DD 738-1 are exhausted.

§ 605.304 *Blanket purchase order.* The blanket purchase order method of establishing a "charge account" is set forth in § 3.606 of this title. In addition, charge accounts may be established in accordance with provisions of § 592.650-3 of this subchapter.

SUBPART D—CONSTRUCTION CONTRACT FORMS

§ 605.401 *Standard Forms 20, 21, 22, 23, and 23a.*

§ 605.401-1 *General.* (a) Since the forms prescribed by § 16.401 of this title include the labor provisions required to be inserted in construction contracts by Part 12 of this title, the forms are recommended for use in all formally advertised construction contracts. Labor provisions not required by statute or regulations to be inserted in construction contracts of \$2,000 or less, may be deleted from the forms where it is deemed desirable to use these forms for such contracts.

(b) Standard Form 23 (Construction Contract) and Standard Form 23a (General Provisions) also may be utilized in negotiated lump-sum construction contracts. When these forms are used for negotiated procurements, the face of the contract should contain a citation of the negotiation authority. Subpart B, Part 3 of this title and Subpart B, Part 592 of this subchapter.

§ 605.401-50 *Engineer construction contract forms.* The forms listed in this paragraph are used principally by the Corps of Engineers and are assigned Engineer form numbers. Local reproduction of the forms is authorized.

(a) *Cost-plus-a-fixed-fee construction contract (ENG 5665-R).*

(b) *Cost-plus-a-fixed-fee architect-engineer contract with optional supervision (ENG 5709-R).*

(c) *Lump-sum contract for architect-engineer services with optional supervision (ENG 77-R).*

(d) *Cost-plus-a-fixed-fee architect-engineer-construction management services contract (ENG 5710-R).*

(e) *Unit price schedule (ENG 1618-R).* This form is prescribed for use in the procurement of construction by formal advertising and will be attached to the bid form when required by the invitation for bids. In reproducing this form the Bureau of the Budget approval notation in the upper right corner should be omitted.

(f) *Plant and equipment schedule (ENG 1619-R).* This form is prescribed for use in the procurement of construction by formal advertising and will be attached to the bid form when required by the invitation for bids. In reproducing this form the Bureau of the Budget approval notation in the upper right corner should be omitted.

SUBPART E—SPECIAL CONTRACT AND ORDER FORMS

§ 605.501 *Negotiated utility service contract forms.* Instructions for the use of DD Form 671 (Negotiated Utility Service Contract) (Short Form) are published in § 16.501 of this title and AR 420-62 (Army Regulations pertaining to utility service contracts).

§ 605.502 *Negotiated contract form for stevedoring services (DD Form 674).* The text of DD Form 674 is published in AR 715-743 (Army Regulations pertaining to contracts for stevedoring services).

§ 605.503 *Master contract for repair and alteration of vessels (DD Form 731 and 731-1).*

§ 605.503-1 *General.* (a) DD Form 731 is prescribed for use in Continental United States for contracting for the repair and alteration of vessels and other floating equipment, except for minor repairs accomplished while the vessel remains in the possession of the Government.

(b) Provisions of this subchapter such as those applicable to approval of awards, preaward surveys, procurement action reporting, advertising, authority to negotiate, etc., apply to the placement of individual job orders rather than to the master contract itself.

(c) The provisions of DD Form 731 relating to Government property do not conform to Part 13 of this title. Job orders placed under DD Form 731 contracts are exempt from the requirements of Part 13 and § 30.2 of this title. However, provisions not in conflict with DD Form 731 may be included in individual job orders making Government property furnished under such job orders subject to specific requirements of § 30.2 of this title.

(d) Clause 3 (b) of DD Form 731 is a provision for the placement of letter contracts for vessel repair work. Accordingly, all job orders placed under Clause 3 (b) are subject to the limitations, approvals, and other provisions of Subchapter A, Chapter I of this title and

this subchapter relating to the letter contracts.

(e) Contracting Officers shall delete all of clause 8, paragraph (e), except the last sentence.

(f) Clause 23 of DD Form 731, entitled "Walsh-Healey Public Contracts Act," is not applicable to contracts for the repair and alteration of vessels entered into by the Department of the Army. The Davis-Bacon Act is not applicable to contracts for the repair or alteration of vessels when the work is placed through competitive bidding and the place of performance is not known at the time bids are invited, or to job orders of \$2,000 or less. The following additional clause shall be included in all contracts entered into by the Department of the Army on DD Form 731:

CLAUSE 39. *Alteration in contract.* The following alterations have been made in the provisions of this contract:

(1) Clause entitled "Walsh-Healey Public Contracts Act" is deleted.

(2) In each case where the Davis-Bacon Act is applicable to a job order issued under this contract, such job order will have attached thereto, and will incorporate by reference, the standard Davis-Bacon clause prescribed by the Armed Services Procurement Regulation together with the schedule of wage determinations made by the Secretary of Labor for the work covered by such job order.

(g) Contracts entered into on DD Form 731 will be numbered in accordance with § 606.203-4 of this subchapter. Each job order issued under such contracts shall contain a reference to the number of the master contract under which it is issued.

§ 605.504 *Order for paid advertisements (Standard Forms 1143 and 1144).* Standard Forms 1143 and 1144 will be used in accordance with §§ 2.202-4 of this title and 591.202-4 of this subchapter.

§ 605.504-1 *Request for authority to advertise (DA Form 192).* (§ 591.202-4 of this subchapter.)

§ 605.506 *Communication service authorization (DD Form 428).* DD Form 428 shall be used in accordance with SR 105-20-3 (Special Regulations of the Army pertaining to communication service).

§ 605.550 *Lease agreement-Government-owned personal property.* (a) The sample form set forth in paragraph (c) of this section is prescribed for any lease of Government-owned personal property under the authority of 10 U. S. C. 2667. It is recognized that not all of the variations in circumstances under which property may be leased can be covered by this sample form. Therefore, variations in the terms and conditions set forth in this lease form may be approved by the Head of any Procuring Activity to whom the authority to approve leases of personal property has been delegated, but only to the extent that such approval complies with all the limitations contained in that delegated authority. (§ 606.204-2 of this subchapter and AR 700-30 (Army Regulations pertaining to lease of personal property.)

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(b) Authority is granted in effecting procurement outside the United States, its Territories and possessions, to deviate from the form to the extent indicated: Paragraph 17—Disputes—on page 3 of the form: Substitute "Disputes" clause prescribed in § 596.102-12 (c) of this sub-chapter.

(c) Sample of form.

Contract No. _____

LEASE AGREEMENT—GOVERNMENT-OWNED PERSONAL PROPERTY

DEPARTMENT OF THE ARMY

Lessee and address _____
Property to be used at _____

PAYMENT

To be made to _____
United States Army, at _____

This lease is authorized by 10 U. S. C. 2667.
This Lease Agreement, entered into this _____ day of _____ 19____ by and between the United States of America, hereinafter called the Government, represented by the Contracting Officer executing this agreement, and _____
*a corporation organized and existing under the laws of the State of _____

*a joint venture consisting of _____

*a partnership consisting of _____

*an individual trading as _____

of the City of _____
in the State of _____
hereinafter called the Lessee, Witnesseth That,

1. The Government hereby leases to the Lessee and the Lessee hereby hires from the Government, upon the terms and conditions hereinafter set forth, the personal property listed in Schedule A which is attached hereto and made a part hereof.

2. This lease is subject to the approval of _____ and shall not be binding until so approved. The term of this lease shall commence on the _____ day following the mailing of written notice to the Lessee that the lease has been so approved and that the property is ready for delivery, and shall continue for a period of _____ [days, months or years]** or until sooner terminated or revoked in accordance with the provisions hereof.

3. At any time during the term, either party may terminate this lease in whole or in part effective not less than 90 days after receipt by the other party or written notice thereof without further liability to either party. However, the Secretary of the Army may revoke this lease in whole or in part at any time.

4. Upon commencement of the term of this lease, the Lessee shall take possession of the leased property at _____ as is, without warranty, express or implied, on the part of the Government as to condition or fitness for any purpose.

5. The Lessee shall pay rent during the term of this lease at the rate prescribed in Schedule A. The rental accrued at the end of any calendar month, or at the expiration, termination or revocation of this lease shall be paid to the Government on or before the 10th day thereafter.

6. The Lessee at its own expense shall maintain the property in good condition and repair and make all necessary replacements of components and parts during the term of this lease. All fuel and lubricants shall be furnished by the Lessee. The Lessee shall

make no changes or alterations in the property except with the consent of the Contracting Officer.

7. The Lessee shall not mortgage, pledge, assign, transfer, sublet, or part with possession of any of the property in any manner to any third party either directly or indirectly, except that this provision shall not preclude the Lessee from permitting the use of the property by a third party with the prior written approval of the Contracting Officer; and the Lessee shall not do or suffer anything whereby any of the property shall or may be encumbered, seized, taken in execution, attached, destroyed, or injured.

8. After taking possession as provided in clause 4, the Lessee shall be solely responsible for the property until it is returned to the Government as provided for in this lease. The property shall be returned in as good condition as when received, reasonable wear and tear excepted. If the Lessee fails to return the property, the Lessee shall pay to the Government the amount specified in Schedule A as the value of the property less the amount determined by the Contracting Officer to represent reasonable wear and tear for the period during which the property was usable. If the Lessee returns the property in other than as good condition as when received, reasonable wear and tear excepted, the Lessee shall pay to the Government the amount necessary to place the property in such condition, or if it is determined by the Contracting Officer that the property cannot be placed in such condition, the Lessee shall pay the Government the amount specified in Schedule A as the value of the property less both the amount determined by the Contracting Officer to represent reasonable wear and tear for the period during which the property was usable and the scrap value of the property.

9. The Lessee shall take all steps necessary to protect the interest of the Government in the property, and the Contracting Officer may require the Lessee, at its own expense, to take such specific measure, including but not limited to the procurement of insurance, as may be necessary to protect such interest.

10. On or before the last day of the term of this lease the Lessee shall return the property to the Government at _____ or such other place as the Contracting Officer may designate, except that in the event of revocation of this lease the Lessee shall return the property to the Government at the designated place as soon after such revocation as the same can be accomplished. The Lessee shall reimburse the Government immediately, upon presentation of a statement thereof, for all packing and handling costs incurred by the Government in performance of this lease. The Lessee shall also pay all other packing, handling, and transportation charges, except that the Lessee's responsibility for return transportation charges shall not exceed the amount required to return the property to the place specifically named above. Further, if the Contracting Officer designates a place to which the property is to be returned other than that specifically named above and if the time required to return the property to such other place exceeds the time required to return the property to the place specifically named above, then the time for which the Lessee must pay rent under clause 5 shall be reduced by the amount of such excess.

11. The property is leased without operators. Any operator deemed incompetent by the Contracting Officer shall be removed from the property.

12. Upon request of the Lessee, the Contracting Officer shall furnish without charge, copies of such drawings, specifications or instructions as the Lessee may require for the operation or repair of the property and as may in the discretion of the Contracting Officer be reasonably available.

13. The Government shall not be responsible for damages to property of the Lessee or property of others, or for personal injuries to the Lessee's officers, agents, servants, or employees, or to other persons, arising from or incident to the use of property herein leased, and the Lessee shall save the Government harmless from any and all such claims; provided that nothing contained in this Clause 13 shall be deemed to affect any liability of the Government to its own employees.

14. At all times the Contracting Officer shall have access to the job site whereon any of the property is situated, for the purposes of inspecting or inventorying the same, or for the purpose of removing the same in the event of the termination of this lease.

15. Control of Government property: The Manual for Control of Government Property in Possession of Contractors set forth in Appendix B of the Armed Services Procurement Regulation is incorporated by reference and made a part hereof.

16. Officials not to benefit: No member or delegate to Congress, or resident commissioner, shall be admitted to any share or part of the contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract, if made with a corporation for its general benefit.

17. Covenant against contingent fees: The Lessee warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Lessee for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this lease without liability or in its discretion to require the Lessee to pay, in addition to the contract price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

18. Disputes: Except as otherwise provided in this lease, any dispute concerning a question of fact arising under this lease which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Lessee. Within 30 days from the date of receipt of such copy, the Lessee may appeal by mailing or otherwise furnishing to the Contracting Officer a written appeal addressed to the Secretary, and the decision of the Secretary or his duly authorized representative for the hearings of such appeals shall, unless determined by a court of competent jurisdiction to have been fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence, be final and conclusive: *Provided*, That if no such appeal is taken, the decision of the Contracting Officer shall be final and conclusive. In connection with any appeal proceeding under this clause, the Lessee shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Lessee shall proceed diligently with the performance of the lease and in accordance with the Contracting Officer's decision.

19. Adjustment of rentals; State or local taxation: Except as may be otherwise provided, the rental rates established in this lease do not include any State or local tax on the property herein leased. If and to the extent that such property is hereafter made taxable by State and local governments by Act of Congress, then in such event the rental rates of this lease shall be equitably adjusted.

*Delete all lines which do not apply.

**Term shall in no event exceed five years unless approved by the Secretary.

20. Except as otherwise specified in this lease, all notices to either of the parties to this lease shall be sufficient if mailed in a sealed postpaid envelope:

To the Lessee:

(Name)

(Address)

To the Government:

(Name)

(Title)

(Address)

21. Definitions: As used throughout this lease, the following terms shall have the meanings set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department and the head or any assistant head of the executive agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this lease on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this lease, the authorized representative of a Contracting Officer acting within the limits of his authority.

22. This agreement shall be subject to the written approval of the Secretary of the Army or his duly authorized representative and shall not be binding until so approved.

23. Alterations: The following changes were made in this lease before it was signed by the parties hereto:

In witness whereof, the parties hereto have executed this lease as of the day and year first above written.

THE UNITED STATES OF AMERICA,
By -----

(Official title)

By -----
(Lessee)

(Business address)

Two witnesses:

(Address)

(Address)

I ----- certify that I am the Secretary of the Corporation named as Lessee herein, that ----- who signed this lease on behalf of the Lessee was then ----- of said corporation; that said lease was duly signed for and on behalf of said corporation by authority of its governing body and is within the scope of its corporation powers.

In witness whereof, I have hereunto affixed my hand and the seal of said corporation this ----- day of ----- 195-----.

[CORPORATE SEAL] -----

(Secretary)

§ 605.551 Letter contract.

§ 605.551-1 Cost-type. (a) This is a form of preliminary contract looking to the execution of a cost-type formal contract. The appropriate termination clause should be inserted in Exhibit "A" and attached to the form as an inclosure.

(b) The following is a sample of the form.

(Letterhead)

(Date)

GENTLEMEN:

1. This letter constitutes a contract on the terms set forth herein and signifies the intention of the Department to execute a formal cost-type contract with you for the delivery of the supplies and the performance of the services as set forth in the attached enclosure, marked Exhibit "A" upon the terms and conditions therein stated. Said formal contract will be in the form used by the Department for procuring supplies and services of the kind indicated in Exhibit "A". This form will include the clauses required by Federal law, Executive Order, and the procurement regulations and directives applicable to such procurements, which clauses are incorporated herein by reference. Exhibit "A", including the termination clause set forth therein is also made a part hereof.

2. You are directed, upon your acceptance of this letter, to proceed immediately to procure the necessary materials, and to commence the manufacture of the supplies and performance of the services, called for herein, and to pursue such work with all diligence to the end that supplies may be delivered or services performed within the time specified in Exhibit "A", or if no time is so specified, at the earliest practicable date. In this connection, you shall give advance notification to the Contracting Officer of any proposed subcontract or purchase order hereunder which is either (a) on a cost-plus-a-fixed-fee basis or (b) on a fixed price basis exceeding in dollar amount either \$25,000 or five per centum of the amount authorized to be expended hereunder. You shall, in addition, obtain such approvals in respect of commitments hereunder as may be specified in Exhibit "A".

3. You shall enter your negotiation for the execution of the formal contract with the Department without delay. In this connection, you shall submit a quotation of the estimated cost to the Government including fixed fee for the articles and services covered by this letter. Such quotation shall be supported by a cost break-down reflecting the factors outlined in the suggested form enclosed herewith.

4. Unless otherwise provided in Exhibit "A" no payments to you shall be made under this letter except as provided in paragraph 5 below.

5. In the event of a termination of performance of the work or any part thereof under this letter by notice given pursuant to the Termination clause incorporated herein by reference, or in the event that the formal contract is not executed within the time specified in Exhibit "A", or any extension of such time as may be authorized in writing by the Contracting Officer, you shall be paid in accordance with the provisions of such Termination clause, except that no profit will be allowed if the Contracting Officer finds that you have delayed the execution of a formal contract for an unreasonable period: *Provided, however,* That in no event shall the liability of the Government to you hereunder exceed the amount specified in Exhibit "A", or such other amount as may be authorized in writing by the Contracting Officer.

6. Please indicate your acceptance of the foregoing by signing this letter and the enclosed copies thereof. Retain one copy for your files and return the remainder to this office.

7. This contract is entered into pursuant to the provisions of 10 U. S. C. 2304 (a) () and any required determination and findings have been made.

Sincerely yours,

(Contracting Officer)

Accepted, as of the date of this letter:

By -----

(Type above, name and position of officer executing this acceptance)

§ 605.551-2 Fixed-price type. (a) This is a form of preliminary contract looking to the execution of a fixed-price formal contract. The appropriate termination clause should be inserted in Exhibit "A" and attached to the form as an inclosure.

(b) The following is a sample of the form.

(Letterhead)

(Date)

GENTLEMEN:

1. This letter constitutes a contract on the terms set forth herein and signifies the intention of the Department to execute a formal fixed price contract with you for delivery of the supplies and the performance of the services as set forth in the attached enclosure, marked Exhibit "A" upon the terms and conditions therein stated. Said formal contracts will be in the form used by the Department for procuring supplies and services of the kind indicated in Exhibit "A". This form will include the clauses required by Federal law, Executive Order, and the procurement regulations and directives applicable to such procurements, which clauses are incorporated herein by reference. Exhibit "A", including the termination clause set forth therein, is also made a part hereof.

2. You are directed, upon your acceptance of this letter, to proceed immediately to procure the necessary materials, and to commence the manufacture of the supplies and performance of the services, called for herein, and to pursue such work with all diligence to the end that the supplies may be delivered or services performed within the time specified in Exhibit "A", or if no time is so specified, at the earliest practicable date.

3. You shall enter into negotiation for the execution of the formal contract with the Department without delay. In this connection, you shall submit a firm quotation for the articles and services covered by this letter. Such quotation shall be supported by a cost breakdown reflecting the price factors outlined in the suggested form enclosed herewith.

4. Unless otherwise provided in Exhibit "A" no payments to you shall be made under this letter except as provided in paragraph 5 below.

5. In the event of a termination of performance of the work or any part thereof under this letter by notice given pursuant to the Termination clause incorporated herein by reference, or in the event that the formal contract is not executed within the time specified in Exhibit "A", or any extension of such time as may be authorized in writing by the Contracting Officer, you shall be paid in accordance with the provisions of such Termination clause, except that no profit will be allowed if the Contracting Officer finds that you have delayed the execution of a formal contract for an unreasonable period: *Provided, however,* That in no event shall the liability of the Government to you hereunder exceed the amount specified in Exhibit "A" or such other amount as may be authorized in writing by the Contracting Officer.

6. Please indicate your acceptance of the foregoing by signing this letter and the enclosed copies thereof. Retain one copy for your files and return the remainder to this office.

7. This contract is entered into pursuant to the provisions of 10 U. S. C. 2304 (a) ()

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and any required determination and findings have been made.

Sincerely yours,

(Contracting Officer)

Accepted, as of the date of this letter:

By _____

(Type above, name and position of officer executing this acceptance)

§ 605.552 Government's order and contractor's acceptance (DA Form 47)—(a) General. The following forms are authorized for use under the conditions set forth in paragraph (b) of this section for negotiated purchases: (1) Government's Order and Contractor's Acceptance (DA Form 47), (2) Standard Form 36 (Continuation Sheet); (3) General Provisions (Supply Contract) Standard Form 32 (only when procuring supplies); and any other forms containing contract provisions which are prescribed by Subchapter A, Chapter I of this title, and this subchapter.

(b) *Conditions for use.* (1) DA Form 47 and Standard Form 36 (Continuation Sheet) (together with authorized contract provisions) may be used for negotiated purchases of supplies wherein (i) price quotations are subject to daily fluctuation, (ii) the amount of the purchase is less than \$100,000, and (iii) no special contract provisions are required which in the particular case would unduly complicate the form.

(2) The form calls for execution by both the Contracting Officer and the Contractor. When so executed, it should be a complete agreement in itself, that is, without reference to separate documents such as proposals or quotation forms.

(3) When completed and signed by the Contracting Officer, and forwarded to the Contractor, DA Form 47 constitutes an offer by the Government to contract on the terms set forth therein. All applicable blanks should be completed at the time the form is forwarded to the Contractor. Where a particular item is not known at the time the form is forwarded to the Contractor (for example, "Ship To" or "Schedule of Deliveries"), the blanks should be filled in with appropriate language indicating how such information will be subsequently furnished.

(4) When signed by the Contractor in the space marked "Contractor's Acceptance" and returned to the Government within the time allowed, the form becomes a binding contract, provided, the Contractor has made no changes in the form by way of deletion, interlineation, or addition, thus departing from the terms of the offer. Contractors should be instructed to inform the Contracting Officer of any changes which appear to be required, so that amendments may be made and initialed by both parties, or a corrected DA Form 47 issued.

(5) Methods of presenting invoices or vouchers, and of packing, marking, and shipping will be as specified in any space on the face of the form, on a continuation sheet, or as otherwise directed by procuring activity instructions.

(6) Standard Form 32 (General Provisions) will be attached in accordance with § 16.205 of this title.

(7) Additional general provisions may be incorporated in accordance with the provisions of § 605.205.

§ 605.553 Academic instruction contracts.

§ 605.553-1 Contract for academic instruction (DA Form 357). AR 350-200, Army Regulations pertaining to training of military personnel at civilian institutions.)

§ 605.553-2 Order form to contract for academic instruction (DA Form 358). (AR 350-200.)

§ 605.553-3 Contract for off-duty academic instruction (DA Form 588). (AR 621-5, Army Regulations pertaining to general educational development.)

§ 605.553-4 Order form to contract for off-duty academic instruction (DA Form 589). (AR 621-5.)

§ 605.554 Contract for sale of property (Negotiated Sale). This form of contract is prescribed for use in sales to contractors and other authorized sales incident to or related to procurement, as authorized by the terms of the contract. A form for general use has not been approved. Cases requiring the use of such a form should be submitted to the Deputy Chief of Staff for Logistics, Department of the Army, ATTN: Chief, Contracts Branch.

§ 605.555 Service order for household goods (DD Form 1164). (AR 743-455, Army Regulations pertaining to commercial warehousing and related services for household goods.)

SUBPART F—FORMS FOR COORDINATED PROCUREMENT

§ 605.601 Military interdepartmental purchase request (DD Form 448, 448-1). (See Part 4 of this title and Part 593 of this subchapter.)

SUBPART G—CONTRACT TERMINATION FORMS

§ 605.700-50 Contract termination forms. The forms listed in Subpart G, Part 16 of this title will be used in accordance with Part 8 of this title and Part 597 of this subchapter.

SUBPART H—MISCELLANEOUS FORMS

§ 605.801 Statement and certificate of award (Standard Form 1036). Standard Form 1036 (Statement and Certificate of Award) is required to be executed in connection with each formally advertised contract, except where: (a) The records of a Procuring Activity are subject to site or comprehensive audit by the General Accounting Office, (b) all information required by the Standard Form 1036 is available in the records of the Procuring Activity, and (c) each purchase order or other contractual document retained by a Procuring Activity indicates the basis on which issued. (§§ 2.406-5 and 16.801 of this title and §§ 591.406-5 (a) and 591.450 (d) (2) of this subchapter.)

§ 605.802 Statement on contingent fees (Standard Form 119). Standard Form 119 is prescribed for use in accord-

ance with Subpart E, Part 1 of this title and Subpart E, Part 590 of this subchapter.

§ 605.804 U. S. Government tax exemption certificate (Standard Form 1094—Revised). Standard Form 1094, 1094a, 1094b, 1094c will be used in accordance with § 16.804 of this title and §§ 600.207 and 600.302 of this subchapter.

§ 605.804-50 Affidavit as proof of shipments to possessions of the United States. A form of affidavit to be used as proof of exportation or shipment to a possession of the United States is set forth in § 600.202 of this subchapter.

§ 605.805 Bond forms. The bond forms listed in § 16.805 of this title will be used in accordance with Subparts A and B, Part 10 of this title and Subparts A and B, Part 599 of this subchapter.

§ 605.807 Individual procurement action report (DD Form 350). DD Form 350 will be prepared in accordance with § 605.303 of this subchapter.

§ 605.810 Bidders' mailing list application (Standard Form 129).

§ 605.810-50 Source of supply. Stocks of Standard Form 129 (Bidders' Mailing List Application), and DD Form 558-1 (Bidders' Mailing List Application Supplement) may be obtained as prescribed in § 591.204 of this subchapter.

§ 605.811 Security requirements check list (DD Form 254). Requirements for use of DD Form 254 are set forth in § 7.104 of this title and §§ 596.104-12 and 592.212-2 of this subchapter and AR 380-131.

§ 605.850 Security agreement (DD Form 441). Requirements for use of the Department of Defense Security Agreement (DD Form 441), are set forth in AR 380-131. Under the provisions of DD Form 441, the Industrial Security Manual for Safeguarding Classified Matter, Department of Defense, is made part of the Security Agreement.

§ 605.851 Abstract of bids. (§ 2.402 of this title and § 591.402 of this subchapter.)

§ 605.851-1 Short form (DA Form 14). This form consists of one sheet printed on both sides. Inapplicable instructions appearing on the reverse side of the form will be disregarded.

§ 605.851-2 Long form (DA Form 29). This form consists of one sheet printed on both sides. Inapplicable instructions appearing on the front page of DA Form 29 will be disregarded.

§ 605.852 Monthly summary of procurement actions (DA Form 377). (§ 606.304 of this subchapter.)

§ 605.853 Purchase request and commitment form (DA Form 14-115). (AR 35-271.)

§ 605.854 Request for planning action (DD Form 403), desired production and production schedule work sheet (DD Form 405), and tentative schedule of production and request for allocation (DD Form 406). (§ 606.801 of this subchapter.)

§ 605.855 *Open-end contract information circulars* (DA Form 1525). (§ 606.1106 (d) of this subchapter.)

§ 605.856 *Necessity certificate* (DPAL-101). (§ 606.1304 (d) of this subchapter.)

§ 605.857 *Report of excess personal property* (Standard Form 120). Material considered for exchange under the provision of § 602.1502 of this subchapter will be reported for screening in accordance with § 602.1502-2 of this subchapter.

§ 605.858 *Shipment and receipt of Government-furnished property* (ENG Form 290). (§ 602.1709-2 of this subchapter.)

§ 605.859 *Reporting Under Title II, First War Powers Act*—(DA Form 1763-R, *Claims Received*) (DA Form 1764-R, *Disposition of Claims*). (§ 606.418-2 of this subchapter.)

§ 605.860 *Contractors request for progress payments* (DD Form 1195) (AR 715-6).

§ 605.861 *Data on proposed procurement action* (DA Form 1877) (§ 606.713 (c)).

§ 605.862 *Department of Labor Forms PC 12 and PC 13*. (Part 601 of this subchapter.)

SUBPART O—GENERAL POLICY

§ 605.1501 *Applicability*. The Department of the Army policy on the use of contract clauses and approved contract forms is set forth in § 596.050 of this subchapter.

§ 605.1502 *Contract clauses*.

§ 605.1502-1 *Modification*. Some of short contract forms contain shorter or modified versions of contract clauses. In such cases, the use of the shorter or modified versions is authorized notwithstanding the provisions of this procedure.

§ 605.1502-2 *Incorporation by reference of general provisions* (Standard Form 32) and other general provisions. (a) To facilitate bidding by prospective bidders on formally advertised invitations for bids and requests for proposals, and to eliminate unnecessary distribution of Standard Form 32 (General Provisions (Supply Contract)) and other general provisions normally incorporated into the contracts entered into by the particular purchasing office, the incorporation by reference of Standard Form 32, and such other general provisions as are determined to be desirable and appropriate in invitations for bids and requests for proposals, is authorized in accordance with the following procedure.

(1) Since Standard Forms 30 and 33 and DD Form 746 incorporate Standard Form 32 by reference only, the additional general provisions which are deemed appropriate should be incorporated by reference in the Schedule. Incorporation by reference of Standard Form 32 and other additional general provisions in other forms in order to facilitate bidding must be authorized by the Head of the Procuring Activity. To the extent incorporation by reference is

not provided in the printed form it must be provided in the Schedule, and language substantially as follows should be used for this purpose:

Standard Contract Provisions (properly identified by title and date), receipt of a copy of which is acknowledged by the bidder, are incorporated herein and made a part hereof with such deletions, additions, and amendments, if any, as are set forth below.

(2) To the extent that the contract provisions are incorporated by reference in the invitation for bids or the request for proposals, it is not necessary to attach such contract provisions each time such an invitation or request is sent to concerns on the agency mailing list. However, before the contract provisions can be incorporated by reference it is essential that the agency distribute copies of the current contract provisions to all prospective bidders on the mailing list, requesting that these contract provisions be retained for future reference. Also, additional copies of these provisions must be made available promptly to bidders and prospective bidders upon request.

(3) In order to accomplish the distribution of the contract provisions contemplated in subparagraph (2) of this paragraph, the following procedure is prescribed. The Standard Form 32 and additional general provisions as determined appropriate may be combined in a single booklet. Such booklet must be identified as "Standard Supply Contract Provisions" and show the agency responsible for its issuance, effective date, and the date of latest revision as it is revised from time to time. The provisions of Standard Form 32 incorporated in the booklet must be properly identified as such and printed as a unit. As an alternative, copies of Standard Form 32 may be requisitioned and bound with or attached to additional general provisions authorized by the Head of the Procuring Activity. Clauses which have been superseded on the printed edition of Standard Form 32 will be crossed out and an appropriate reference made to the paragraphs in the booklet containing the amended clauses.

(4) If incorporation by reference of the contract provisions is not in the best interests of the Government, then a single copy of Standard Form 32 or the booklet may be furnished to each prospective bidder each time such bidder is invited to bid on a particular procurement. If this procedure is used consistently in lieu of the incorporation by reference authorized above, then a copy of Standard Form 32 or the booklet will not be distributed to all bidders on the mailing list.

(5) Appropriate steps will be taken to insure proper distribution of the general provisions to all Government agencies and activities concerned with the performance and payment of contracts to which the provisions apply. Once such distribution has been made, no additional copies need be furnished to such agencies and activities, unless specifically requested, until such time as the general provisions are revised.

§ 605.1503 *Deviations from approved forms*.

§ 605.1503-1 *General*. Deviations in format, size, or contents of approved forms are prohibited except as authorized by Subchapter A, Chapter I of this title and this subchapter unless prior written approval is obtained in each case from the Chief, Contracts Branch, Deputy Chief of Staff for Logistics, Department of the Army.

§ 605.1503-2 *Local reproduction*. The fact that authority may have been previously granted for local reproduction, or for procurement of reproducible masters, of certain approved forms does not of itself authorize deviations in the format or size. Separate authority for such deviations is necessary. However, approval of The Adjutant General for the first procurement of a reproducible master will suffice for subsequent procurements of the same master until otherwise notified by The Adjutant General.

§ 605.1503-3 *Translations*. To facilitate procurement in foreign countries, authority is granted to reproduce a translation of any form. Either a bilingual form may be utilized, or the translation may be printed as a separate form. When the foreign language translation is printed as a separate form, it will be attached to its corresponding approved form. In either instance both the foreign language translation and the approved English text will contain a statement that in the event of a disagreement in the text of the English and foreign translations, the English text will govern.

§ 605.1504 *Procuring activity contract forms*. In view of their special nature, some procuring activity forms previously have been approved for particular use by the Chief, Contracts Branch, Deputy Chief of Staff for Logistics, Department of the Army. These forms are excluded from the provisions of §§ 596.050 and 605.1501 of this subchapter. Procuring activities may continue to use such approval forms, provided, the forms are not inconsistent with the policies stated in Subchapter A, Chapter I of this title and this subchapter.

§ 605.1505 *Supply of forms*.

§ 605.1505-1 *Stockage objective*. Quantities of forms requisitioned or procured by using installations will be limited to provide for minimum stocks, consistent with economical procurement, necessary to meet current requirements.

§ 605.1505-2 *Forms stocked by Adjutant General Publications Centers*. Unless otherwise stated, the procurement forms listed in this Procedure are procured by The Adjutant General and are stocked in Adjutant General Publications Centers. Requisitions for forms will be submitted through normal publications supply channels. Most procurement forms are printed either as cut sheet forms or as multiple part manifold forms.

§ 605.1505-3 *Cut sheet forms*. An example of a cut sheet is the Standard

Form 30 (Invitation and Bid) which is printed on tissue paper. This weight of paper permits the preparation of an original and nine carbon copies at one time. Another example is the Standard Form 32 (General Provisions), which also is printed as a cut sheet. In this case, however, because no typing is required and because the form is printed on both sides of the paper, a heavier weight paper is used.

§ 605.1505-4 *Multiple part manifold forms.* An example of a multiple part form is the DD Form 1155 (Order for Supplies or Services). This form is a ten part, carbon interleaved, manifold form of snap-out construction. The first part is the original; each of the other parts is a memorandum copy of the original.

SUBPART P—LETTER FORMS AND AGREEMENTS

§ 605.1601 *Forms for determinations and findings.* (§ 592.305 of this subchapter.)

§ 605.1602 *Summary of negotiation and contract award data.* (§ 592.308 of this subchapter.)

§ 605.1603 *Advance payments.* (§ 592.504 (b) of this subchapter.)

§ 605.1604 *Determinations and exemptions under the Buy American Act.* (§ 605.103-5 (f).)

§ 605.1605 *Form letter for acknowledging receipt of a notice of infringement.* (§ 598.105-54 of this subchapter.)

§ 605.1606 *Patent license and release contract.* (§ 598.105-64 (e) of this subchapter.)

§ 605.1607 *Form letter for acknowledging receipts of communication from invention owner.* (§ 598.1505 of this subchapter.)

§ 605.1608 *Patent license and release contract—gratuitous grants.* (§ 598.1509 of this subchapter.)

§ 605.1609 *Consent of surety—contract modification.* (§ 599.203 of this subchapter.)

§ 605.1610 *Assignment to Government of insurance premiums.* (§ 599.558 of this subchapter.)

§ 605.1611 *Letter form for transmitting non-discrimination posters.* (§ 601.806-2 of this subchapter.)

§ 605.1612 *Contractors application form for relief under Title II, First War Powers Act, 1941, as amended.* (§ 606.406-3 of this subchapter.)

§ 605.1613 *Contractor application for requesting formalization of informal commitment.* (§ 606.409-3 of this subchapter.)

§ 605.1614 *Form for joint determinations and small business determinations.* A Form similar to SBA Form 70 for use under joint determinations and small business determination is set forth in § 606.714 (h) of this subchapter.

SUBPART Q—REVISION OF PROCUREMENT FORMS (TEMPORARY)

§ 605.1700 *Scope.* This subpart sets forth interim instructions with respect

to (a) amendment of existing forms, (b) revision of forms authorized to be procured locally, and (c) use of such forms.

§ 605.1701 *General.* Public Law 1028, 84th Congress, repealed certain laws relating to military procurement and codified their provisions in certain sections of Title 10 of the United States Code. Procurement forms containing citations to any provision(s) of law codified in Title 10, shall be corrected to refer to the corresponding provision(s) of Title 10, as shown in the following example:

Revise, "Section 2 (c) (), Armed Services Procurement Act 1947, as amended (41 U. S. C. 151 et seq.)" to read "10 U. S. C. 2304 (a) ()".

§ 605.1701-1 *Existing stocks of forms—(a) DD Forms.* Existing stocks of DD Forms 351, 671, 731-1, 746-2, 1155 and 1164 will be manually corrected by striking out the citation to the Armed Services Procurement Act of 1947 and inserting in lieu thereof the appropriate citation(s) to Title 10 of the United States Code, as shown in the example in § 605.1701. Existing stocks of these forms, manually corrected, will be used until exhausted or until 30 June 1957, whichever is earlier, except that stocks of DD Forms 738-1, 1155, and 1167 shall be used until exhausted without regard to the 30 June 1957 cutoff date. (§ 605.303-3.) DD 731-1 will be revised to read as follows:

This job order is issued pursuant to 10 U. S. C. 2301 et seq.

By advertising under invitation

No. _____

By negotiation under 10 U. S. C. 2304 (a) ().

(b) *DA and procuring activity forms.* Existing stocks of Department of the Army and Procuring Activity Forms, which contain citation(s) to provisions of law codified in Title 10, will be manually corrected in the same manner as prescribed in paragraph (a) of this section and may be used until present stocks are exhausted.

6. In § 606.204-4, revise paragraph (a) (3), the introductory portion of paragraph (b), and paragraph (c) (7), and in § 606.204-6, revise paragraph (b) and revoke paragraph (d), as follows:

§ 606.204-4 *Architect-engineer contracts.* (a) * * *

(3) Each time the cumulative total of additional supplements for either category of services entered into after the latest required Secretarial approval (as to the applicable category of services) results in an increment of more than \$500,000 for that category of services, except that in the case of supplements to existing contracts for either category of services of a nonpersonal services nature, Secretarial approval will not be required, regardless of the amount of a proposed supplement, provided in each case the proposed supplement pertains to a basic contract previously approved (as to the applicable category of services) by the Assistant Secretary of the Army (Logistics), or a basic contract having a previous supplement which has been so approved; and provided, further, that all the following conditions are met:

(i) The proposed supplement contains no deviations from procurement regulations which were not authorized for use in the previously approved basic contract or supplement.

(ii) The profit or fixed fee does not exceed any limitation imposed on the Head of the Procuring Activity.

(iii) The terms and conditions of the proposed supplement are such that there is no statutory requirement for approval by higher authority.

(iv) The proposed supplement applies to an approved program for which funds are available.

Where all the conditions set forth above are not met, the award of the proposed supplement will be forwarded, through channels, to the Deputy Chief of Staff for Logistics, Department of the Army, ATTN: Chief, Contracts Branch, for prior approval by higher authority.

(b) Subject to the foregoing conditions and to the additional requirements set forth in individual delegations of authority, authority to approve awards of contracts for architect-engineer services, including authority to extend, amend, and modify such contracts, has been delegated as follows with further authority to redelegate to such other officers and individuals as the delegates may personally designate:

* * * * *

(c) Awards approved under the foregoing authority must conform with the following further conditions:

* * * * *

(7) In the case of contracts for architect-engineer services of a personal services nature:

(i) Provision shall not be made therein for the performance of services beyond the end of the fiscal year, except that this requirement shall not apply to contracts obligating funds which are available for obligation during a period in excess of a fiscal year.

(ii) The approving authority shall certify in writing that the contract is advantageous to and necessary for the national defense, that existing facilities of the Department of the Army are inadequate to accomplish the required services, and that the compensation specified therein is considered reasonable. In addition, the approving authority shall certify in writing that the employment of the proposed Contractor will not be in excess of the civilian personnel authorization established by the Department of the Army for that Procuring Activity.

§ 606.204-6 *Negotiated contracts in general.* * * *

(b) *Chiefs of Technical Services.* Chiefs and Acting Chiefs of Technical Services are authorized to approve awards of negotiated contracts not included in § 606.204-1 through § 606.204-5 in the following amounts: (1) Chief Chemical Officer, Chief of Engineers, The Quartermaster General, The Surgeon General, and Chief of Transportation, not in excess of \$5,000,000; (2) Chief Signal Officer in amounts not in excess of \$10,000,000; and (3) Chief of Ordnance in amounts not in excess of \$25,000,000. This authority may be redelegated by Chiefs of Technical Services to the ex-

tent deemed necessary without authority of further redelegation. Subject to any further instructions which may be issued by the Chief of a Technical Service, contracts included in this paragraph amounting to less than \$100,000 do not require approval by higher authority.

• • •
(d) *Armed Services Medical Procurement Agency.* [Revoked.]

7. Sections 606.204-7, 606.204-9, 606.204-10, 606.204-11, 606.204-12 and 606.204-13 are revised to read as follows:

§ 606.204-7 *Major oversea commands.* Commanding generals of major oversea commands may approve awards of negotiated contracts, entered into by Contracting Officers under their jurisdiction, not included in § 606.204-1 through § 606.204-5, except as otherwise specifically delegated in writing. Commanding generals of major oversea commands may redelegate this authority to the extent deemed necessary, without authority of further redelegation.

§ 606.204-9 *Management engineering contracts.* (a) Management engineering services and activities are explained in Department of the Army Pamphlet 20-345. Proposed contracts for services of the general nature described in paragraphs 2 and 3 of that pamphlet fall within the scope of AR 1-110. (Army Regulations pertaining to contracts for Management Engineering.) A Contracting Officer shall not execute a contract (or supplemental agreement) for management engineering services prior to receipt, through channels, of Secretarial approval of the project. In the event that proposed contracts (including supplemental agreements) for such services are forwarded to higher authority in connection with obtaining Secretarial approval of the project, as required by paragraph 7, AR 1-110, such proposed contracts (or supplemental agreements) originating in the Technical Services shall be submitted to the Deputy Chief of Staff for Logistics, Department of the Army, ATTN: Chief, Management Division.

(b) In the event that proposed contracts (including supplemental agreements) for management engineering services are forwarded to higher authority for contract award approval because (1) the contract amount involved exceeds that set forth in the delegated authority to approve awards of contracts (§§ 606.204-6 and 606.204-10), or (2) the services being procured are of a personal services nature (§ 606.204-1), or (3) approval of award by higher authority is required or desired for other reasons, such proposed contracts (or supplemental agreements) shall be submitted to the Deputy Chief of Staff for Logistics, Department of the Army, ATTN: Chief, Contracts Branch.

(c) AR 1-110 does not apply to the employment of experts or consultants on a per diem basis. (§ 606.204-1.)

§ 606.204-10 *Modifications of contracts.* (a) Heads of Procuring Activities are authorized to approve supplemental agreements to existing supply, research and development or nonpersonal con-

tracts, except Utility Service Contracts (§ 606.204-5), regardless of dollar value under the conditions set forth below. This authority may be redelegated at the discretion of the Head of a Procuring Activity, subject to the same conditions.

(1) The proposed supplement pertains to (i) a basic contract previously approved by the Deputy Chief of Staff for Logistics, or higher authority; or, (ii) pertains to a basic contract having a previous supplement which has been so approved.

(2) The proposed supplement contains no deviations from procurement regulations which were not authorized for use in the previously approved basic contract or supplement.

(3) The profit or fee does not exceed any limitations imposed by Subchapter A, Chapter I of this title and this subchapter, or other procurement directives.

(4) Terms and conditions of the proposed supplement are such that there is no statutory requirement for approval by higher authority. Supplements to facilities contracts involving nonseparable facilities will continue to be submitted to the Deputy Chief of Staff for Logistics, for approval.

(5) The proposed supplement applies to an approved program for which funds are available.

(b) Where a basic contract or a previous supplement thereto has not been approved by the Deputy Chief of Staff for Logistics, any supplement which serves to increase the total contract amount in excess of the amount delegated in §§ 606.204-3, 606.204-4, and 606.204-6 will be submitted to the Deputy Chief of Staff for Logistics for approval. Subsequent supplements may then be approved by Heads of Procuring Activities, subject to the conditions in paragraph (a) of this section.

(c) Any supplemental agreement, change order, or any other type of modification of a contract coming within the purview of § 606.204-8 (or otherwise proposed to be entered into pursuant to the authority granted in Title II, First War Powers Act, 1941, as amended), will conform to the requirements of Subpart D of this part.

§ 606.204-11 *Exigency and competition impracticable.* Requests requiring approval of higher authority of contracts or awards of contracts negotiated under the authority of § 3.202 of this title and § 592.202 of this subchapter (Public Exigency) may be submitted by telegraph or radio. In addition to the information required by § 606.205, requests for approval of awards of contracts negotiated under the authority of § 3.210 of this title and § 592.210 of this subchapter will set forth the specific grounds upon which impracticability of competition was based.

§ 606.204-12 *Contract review.* At least one competent person, whether or not presently assigned to such office, will be assigned to the duty of reviewing in an advisory capacity all contracts, except purchases of \$1,000 or less, prior to contract approval by the subordinate commanders or chiefs of field offices. This review will apply to both advertised

and negotiated procurements, regardless of the level of procuring authority, and will be for the purpose of insuring that the clauses and conditions of the contract comply with the principles of good procurement and that the interest of the Government is adequately protected. In those instances wherein this is impracticable, this provision may be waived upon determination made to that effect by the army commander, major oversea commander, Commanding General, Military District of Washington, U. S. Army, or the chief of a technical service, as appropriate.

§ 606.204-13 *Approval clause.* If approval of a contract, supplemental agreement, or change order by any officer or official of the Army Establishment other than the Contracting Officer is required pursuant to this Procedure (a) the "Approval of Contract" clause set forth in § 7.105-2 of this title will be included, (b) all changes and deletions will have been made before such approval is requested, and (c) the contract will not be valid until such approval has been obtained.

8. In § 606.1005, revise paragraphs (a) (1) and (b) (3) (i), add paragraph (b) (3) (v), and revise paragraph (c) (1), as follows:

§ 606.1005 *Transportation considerations in the procurement cycle.* * * *

(a) *Preliminary phase.* * * *

(1) From destination data provided in the procurement directive, determine whether origin or FOB destination procurement is required, or whether bids or proposals should be solicited on both cases (§ 1.306 of this title). When items are to be procured for destination outside continental United States, the specific port(s), or point(s) of exit, to be used as the basis for evaluation of Government cost of transportation will be determined by appropriate coordination between the Contracting Officer and the Department of the Army transportation contacts. The transportation cost factors which are to be included in the IFP or RFP will be determined during this phase.

(b) *Solicitation phase.* * * *

(3) Invitations for bids or requests for proposals to be solicited on an FOB origin basis will include the following information:

(1) The evaluation of bids (proposals) will be made on the basis of bid price plus transportation costs to the Government from point of origin to destination(s) named.

(v) When items to be procured are for destinations outside the continental United States, transportation cost factors (other than inland) will be included in the IFP or RFP, and the specific port(s) or point(s) of exit to be used as a basis for evaluation of the transportation cost to destination(s) will be named. Provided, when only one such port or point of exit is involved, transportation cost factors need not be shown in the IFP or RFP, unless weight and cube of the items to be procured vary with the different bidders. Ports or points of exit specified will be consistent with Trans-

portation Corps publications and guidance. In the event a Contracting Officer has reason to believe utilization of port(s) and point(s) of exit, other than those set forth in Transportation Corps publications, would be advantageous to the Government he will submit a request to the Department of the Army transportation contact for approval prior to the issuing of the IFB or RFP.

(c) *Evaluation and award phase.* (1) In evaluating bids or proposals submitted on an FOB origin basis when destination or distribution patterns are known, the cost of transportation must be added to the bid or proposal in evaluating the actual cost to the Government. Accurate weight and cubage, current transportation rates, and use of proper modes of transportation are essential in this process. When a destination outside continental United States is known and more than one United States port or point of exit is appropriate for use in the evaluation, the differences in transportation costs (ocean, port handling, and inland transportation costs) will be considered, so that the award will reflect the most advantageous basis of cost of the supplies landed at the overseas port. Only ports or points of exit specified in the invitation for bids or request for proposals will be used for purposes of evaluating competitive bids or proposals. Information pertaining to ocean transportation costs, port handling costs, and inland transportation costs can be obtained from the Department of the Army transportation contact.

[IC28, APP. Mar. 8, 1957, and C29, Mar. 12, 1957] (Sec. 3012 70A Stat. 157; 10 U. S. C. 3012. Interpret or apply 70A Stat. 127; 10 U. S. C. 2301-2314)

[SEAL] HERBERT M. JONES,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 57-3637; Filed, May 3, 1957;
8:45 a. m.]

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

Subchapter K—Marine Investigations and Suspension and Revocation Proceedings

[CGFR 57-11]

PART 136—MARINE INVESTIGATION REGULATIONS

WITNESS FEES, SUBSISTENCE, AND MILEAGE

Public Law 875, 84th Congress, approved August 1, 1956, 70 Stat. 798, amended 28 U. S. C. 1821 by increasing the mileage fee for witnesses traveling within the continental United States to attend a court of the United States to 8 cents per mile, increased the subsistence allowance to \$8.00 per day and retained the witness fee of \$4.00 per day for attendance and travel time. By Order 126-56, dated August 13, 1956, and published in the *FEDERAL REGISTER* August 17, 1956 (21 F. R. 6172), the Attorney General established a new regulation designated 28 CFR 21.4 which provides that mileage should be computed on the basis

of highway distances as stated in any generally accepted highway mileage guide, which contains a short-line nation-wide table of distances and which is designated by the Administrative Assistant Attorney General for that purpose. In areas where there is no highway mileage guide, mileage is to be computed on the basis of the mode of travel actually used, on the usually traveled route and on distances generally accepted in the locality.

The provisions of R. S. 4450, as amended, 46 U. S. C. 239 (f), provide that witnesses attending investigations and hearings required under such law may receive compensation "not exceeding the rate allowed *** to witnesses *** in any District Court of the United States." At present the subsistence allowance is \$5.00 per day and the mileage is 7 cents per mile. The increase in the subsistence allowance and mileage is based on the increase in living costs and cost of transportation which have occurred since 1949. The purpose for the amendment to 46 CFR 136.11-10 (b) (1), (2), and (4) is to have Coast Guard regulations regarding witness fees, subsistence, and mileage to agree with practices followed in the District Court of the United States with respect to the same subject. It is hereby found that compliance with the Administrative Procedure Act respecting notice of proposed rule making, public rule making procedures thereon, and effective date requirements thereof, is unnecessary.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order No. 120, dated July 31, 1950 (15 F. R. 6521), Treasury Department Order No. 167-9, dated August 3, 1954 (19 F. R. 5195), Treasury Department Order No. 167-14, dated November 26, 1954 (19 F. R. 8026), Treasury Department Order No. 167-20, dated June 18, 1956 (21 F. R. 4894), and Treasury Department Order CGFR 56-28, dated July 24, 1956 (21 F. R. 5659), to promulgate regulations in accordance with the statutes cited with the regulations below, the following amendment to § 136.11-10 (b) (1), (2), and (4) is prescribed and shall become effective upon the date of publication of this document in the *FEDERAL REGISTER*:

§ 136.11-10 *Witness fees, subsistence, and mileage.* ***

(b) ***

(1) A fee of \$4 for each day or fraction thereof of attendance and for the time necessarily occupied in going to and returning from the investigation or hearing in the case of a witness called to testify as to the facts. A witness called to testify as an expert may be paid a higher fee provided such higher fee is approved by the Commandant prior to his appearance at the investigation or hearing.

(2) A subsistence allowance of \$8 for day or fraction thereof if the witness resides at a distance so far removed from the place at which the investigation, hearing or other proceeding was held as to prohibit his returning to his place of residence each day: *Provided*, That the

witness was required to remain at the place at which the investigation, hearing or other proceeding was held for more than one day: *Provided further*, That in the case of employed merchant marine personnel their place of residence will be construed to be the vessel upon which they are employed, and in the case of unemployed merchant marine personnel their place of residence will be construed to be their actual place of residence when ashore, rather than the residence of their next of kin. In cases where subsistence allowance is payable, additional subsistence allowance of \$8 per day may be paid for each day necessarily occupied in traveling from the place of residence to attend the investigation, hearing or other proceeding hereunder and return to such residence or place. No subsistence allowance for travel time shall be paid if witness is already present at place of investigation, hearing or other proceeding hereunder. In computing the subsistence allowance due a witness the day shall be regarded as beginning on the hour at which it was necessary for the witness to leave his home in order to arrive at the appointed time at the place where the investigation, hearing or other proceeding is held. The witness is to leave the place of investigation, hearing or other proceeding by the first available transportation after his dismissal.

(4) Travel money at the rate of 8 cents per mile, not to exceed 100 miles, for actual travel from place of residence or place where subpoena was served to place at which the investigation, hearing or other proceeding was held. Travel money at the rate of 8 cents per mile, not to exceed 100 miles, is also allowed for the actual travel involved in return of witness to his place of residence, or if the subpoena was served at a place other than the witness's place of residence, to the place where said subpoena was served. All payments of travel money shall be computed on the basis of mileage by the shortest route. When a witness is furnished transportation by the Government no mileage allowance is authorized. If a witness is unable to furnish funds for transportation charges, Government transportation requests may be issued for his transportation, at the lowest first class rate available, to and from the place of investigation, hearing or other proceeding, in which case the mileage allowance is not authorized. When two or more witnesses are transported at the same time in the same privately owned vehicle, operated by one of the witnesses, the mileage allowance for only one witness is authorized.

(R. S. 4450, as amended, 4462, as amended, 46 U. S. C. 375, 416. Interprets or applies R. S. 4450, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 3, 68 Stat. 675; 46 U. S. C. 239, 367, 50 U. S. C. 198)

Dated: April 29, 1957.

[SEAL] A. C. RICHMOND,
Vice Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 57-3651; Filed, May 3, 1957;
8:48 a. m.]