

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 25—FEDERAL EMPLOYEES' PAY REGULATIONS

PART 531—PAY UNDER THE CLASSIFICATION ACT SYSTEM

General Provisions

Effective upon publication in the FEDERAL REGISTER, subparagraph (4) of paragraph (c) of § 25.103 is amended as set out below.

§ 25.103 General provisions.

(c) Computation of highest previous rate. * * *

(4) If the highest previous rate was earned in a Classification Act position, it shall be increased by any subsequent amendments to the Classification Act pay schedules. If such highest previous rate was earned in a position not subject to the Classification Act, this rate shall be computed as follows: The actual rate earned at the time of such service shall be converted to the equivalent per annum rate under the Classification Act as of the time of such service; where there was an exact equivalent per annum rate under the Classification Act, that rate shall be used, and where this rate occurs within two or more grades under the Act, the rate in the grade which gives the employee the maximum benefit shall be used; where there was no exact equivalent per annum rate under the Classification Act and the actual rate fell between two rates under the Act, the higher Classification Act rate shall be considered an equivalent; where the actual rate fell between two rates within the range of two or more grades under the Act, the rate in the grade which gives the employee the maximum benefit shall be used as the equivalent annual rate; the equivalent Classification Act rate thus determined shall be converted to the equivalent per annum rate under the current Classification Act pay schedule and shall be the employee's highest previous rate.

(Sec. 1101, 63 Stat. 971; 5 U.S.C. 1072)

Reorganization and Revision of Chapter. In the FEDERAL REGISTER for October 12, 1963, the Civil Service Commission published new pay and leave regulations to become effective December 15, 1963, superseding the corresponding old regulations on that date. The first amendment of these new regulations was published in the FEDERAL REGISTER on October 15, 1963. Complete background information appears in the explanatory statements published with the new regulations and the first amendment respectively.

A fifth amendment of these new regulations is set out below, i.e., the new pay and leave regulations published in the FEDERAL REGISTER on October 12, 1963, as amended, which are to become effective December 15, 1963, are further amended as follows:

In Part 531—*Pay Under the Classification Act System*, Subparagraph (4) (i) of paragraph (c) of § 531.203 is amended as set out below.

§ 531.203 General provisions.

(c) Computation of highest previous rate. * * *

(4) (i) The actual rate earned at the time of service computed on an annual basis is compared to the annual rates under the act as of the time of service to select an equivalent annual rate. When the actual rate is the same as a rate under the act, the rate under the act is the equivalent annual rate. When the actual rate is the same as a rate under the act and that rate occurs within two or more grades under the act, the rate which gives the employee the maximum benefit when it is converted under subdivision (ii) of this subdivision is the equivalent annual rate. When the actual rate falls between two rates under the act, the higher rate is the equivalent annual rate. When the actual rate falls between two rates within the range of two or more grades under the act, the rate which gives the employee the maximum benefit when it is converted under subdivision (ii) of this subdivision is the equivalent annual rate.

(Sec. 1101, 63 Stat. 971; 5 U.S.C. 1072)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] MARY V. WENZEL,
Executive Assistant to
the Commissioners.

[F.R. Doc. 63-12271; Filed, Nov. 22, 1963; 8:50 a.m.]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Tree Nuts), Department of Agriculture

[Navel Orange Reg. 38]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.338 Navel Orange Regulation 38.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907; 27 F.R. 10087), regulating the handling of navel oranges grown in Arizona

and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 21, 1963.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., November 24, 1963, and ending at 12:01 a.m., P.s.t., December 1, 1963, are hereby fixed as follows:

- (i) District 1: 850,000 cartons;
- (ii) District 2: Unlimited movement;
- (iii) District 3: 125,000 cartons;
- (iv) District 4: 30,000 cartons.

RULES AND REGULATIONS

(2) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 22, 1963.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable
Division, Agricultural Market-
ing Service.

[F.R. Doc. 63-12369; Filed, Nov. 22, 1963;
11:23 a.m.]

[Lime Reg. 5, Amdt. 2]

PART 911—LIMES GROWN IN FLORIDA

Quality and Size Regulation

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Florida Lime Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of limes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than November 25, 1963. Shipments of Florida limes are currently regulated pursuant to Lime Regulation 5 as amended (28 F.R. 3969, 5493) and, unless sooner terminated, will continue to be so regulated until May 1, 1964, determinations as to the need for, and extent of, continued regulation of Florida lime shipments must await the development of the crop and the availability of information on the demand for such fruit; the recommendations and supporting information for regulation of lime shipments subsequent to November 25, 1963, and in the manner herein provided, were promptly submitted to the Department after an unassembled meeting of the Florida Lime Administrative Committee on November 19, 1963, held to consider recommendations for regulation; the provisions of this amendment are identical with the aforesaid recommendations of the committee, and information concerning such provisions

has been disseminated among handlers of Florida limes; it is necessary, in order to effectuate the declared policy of the act, to make this amendment effective as hereinafter set forth; and compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

(b) It is, therefore, ordered that the provisions of paragraph (b)(1)(ii) of § 911.307 (Lime Regulation 5, as amended; 28 F.R. 3969, 5493) are hereby amended to read as follows during the period beginning at 12:01 a.m., e.s.t., November 25, 1963, and ending at 12:01 a.m., e.s.t., January 20, 1964:

§ 911.307 Lime Regulation 5.

* * * * *

(b) * * *

(1) * * *

(ii) Any limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) which do not grade at least U.S. Combination, Mixed Color, with not less than 60 percent, by count, of the limes in each container thereof grading at least U.S. No. 1, Mixed Color, and the remainder thereof grading not less than U.S. No. 2, Mixed Color; or

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 21, 1963.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F.R. Doc. 63-12323; Filed, Nov. 22, 1963;
8:53 a.m.]

PART 982—FILBERTS GROWN IN OREGON AND WASHINGTON

Free and Restricted Percentages for the 1963-64 Fiscal Year; Termination

Pursuant to the provisions of amended Marketing Agreement No. 115 and Order No. 982 (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) and on the basis of recommendations of the Filbert Control Board and other available information, it was found that the establishment of free and restricted percentages limiting the quantity of merchantable filberts which may be handled during the 1963-64 fiscal year which began August 1, 1963, would tend to effectuate the declared policy of the act. Such percentages were established and published in the FEDERAL REGISTER (28 F.R. 10401).

The Filbert Control Board has now unanimously recommended that in view of a smaller filbert crop than it had estimated earlier in the season (on the basis of which it recommended the establishment of percentages), the supply of filberts subject to regulation should be estimated at 10.1 million pounds compared to its earlier estimate of 13.1 million pounds. Such reduced quantity is

insufficient to meet the projected inshell trade demand and handler carryover for the 1963-64 fiscal year. Moreover, the application of any restricted percentage to the reduced quantity would further reduce the availability of merchantable filberts to meet such requirements. The Filbert Control Board also recommended that the free and restricted percentages should, therefore, be terminated.

On the basis of the foregoing and other available information, it is hereby found that continuation in effect of free and restricted percentages for the 1963-64 fiscal year is not now necessary to effectuate the declared policy of the act.

Therefore, § 982.213 *Free and restricted percentages for merchantable filberts during the 1963-64 fiscal year* (28 F.R. 11401), is hereby terminated.

It is hereby further found that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and to postpone the effective date of this action later than the date of publication in the FEDERAL REGISTER (5 U.S.C. 1001-1011) in that: (1) The maintenance in effect of the current free and restricted percentages for the remainder of this fiscal year will, in view of the estimated small filbert crop, reduce the availability of merchantable filberts for the inshell market below its needs; and (2) the termination of the percentages relieves restrictions on handlers, and restricted filberts should be freed from withholding and handlers' restricted obligations reduced as soon as possible.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 18, 1963, to become effective upon publication in the FEDERAL REGISTER.

ARTHUR E. BROWNE,
Acting Director,
Fruit and Vegetable Division.

[F.R. Doc. 63-12281; Filed, Nov. 22, 1963;
8:53 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 6—UNITED STATES GOVERN- MENT LIFE INSURANCE

PART 8—NATIONAL SERVICE LIFE INSURANCE

Dividends; How Paid

1. In Part 6, § 6.95 (b) and (g) is amended to read as follows:

§ 6.95 How paid.

* * * * *

(b) Unless and until the Veterans Administration receives a written request from the insured that United States Government life insurance regular annual dividends be paid in cash, or that they be used to pay an insurance indebtedness, or that they be placed on deposit or be used to pay premiums in advance, or that they be used to pay the premiums on a particular policy or policies, any

such dividends shall be held to the credit of the insured to be applied, to pay monthly premiums becoming due and unpaid after the date such dividends are payable on any United States Government life insurance policy or policies held by the insured: *Provided*, That such dividend credits will be applied as of the due date of any unpaid premium. Dividend credits will earn interest at such rate and in such manner as the Administrator may determine.

(g) At the written request of the insured, United States Government life insurance regular annual dividends may be left to accumulate on deposit at interest which will be credited in such manner and at such rate as the Administrator may determine, but a rate never less than 3½ percent: *Provided*, That the policy is in force on a basis other than extended term insurance or 5-year level premium term insurance. Dividend credit of the insured held for payment of premiums or dividends left to accumulate on deposit may be applied to the payment of premiums in advance upon written request of the insured made before default in payment of a premium. Dividends on deposit under the provisions of this paragraph will be used in addition to the reserve on the policy for the purpose of computing the period of extended term insurance or the amount of paid-up insurance as provided in §§ 6.105 and 6.110, respectively. Any dividend credit of a person who no longer has insurance in force by payment or waiver of premiums will be paid in cash to such person. If a person has a dividend credit option on a lapsed 5-year level premium term policy or a permanent plan policy on which extended term insurance has expired and such person has another policy in force by payment or waiver of premiums, any dividend credit or unpaid dividends on the lapsed policy, in the absence of instructions from the insured to the contrary, will be transferred to the policy which is in force and will be held on such policy as a dividend credit. Such dividend credit will be deemed to have accrued on the policy which is in force. Upon maturity of the policy, any dividend on deposit, any unpaid dividend payable in cash, and any dividend credit accruing from such policy which cannot be used to pay premiums as provided in section 746 of Title 38, United States Code, will be paid to the person currently entitled to receive payments under the policy. If the policy is not in force at death, any such unpaid dividends and dividend credits will be paid to the insured's estate.

2. In Part 8, § 8.26 (b) and (g) is amended to read as follows:

§ 8.26 How paid.

(b) Unless and until the Veterans Administration receives a written request from the insured that National Service life insurance dividends be paid in cash, or that they be used to pay an insurance indebtedness, or that they be placed on

deposit or be used to pay premiums in advance, or that they be used to pay the premiums on a particular policy or policies, any such dividends shall be held to the credit of the insured to be applied to pay monthly premiums becoming due and unpaid after the date such dividends are payable on any National Service life insurance policy or policies held by the insured: *Provided*, That such dividend credits will be applied as of the due date of any unpaid premium. Dividend credits will earn interest at such rate and in such manner as the Administrator may determine.

(g) At the written request of the insured, National Service life insurance dividends may be left to accumulate on deposit at interest which will be credited in such manner and at such rate as the Administrator may determine: *Provided*, That the policy is in force on a basis other than extended term insurance or level premium term insurance. Dividend credit of the insured held for payment of premiums or dividends left to accumulate on deposit as provided in this paragraph may be applied to the payment of premiums in advance upon written request of the insured made before default in payment of a premium. Dividends on deposit under the provisions of this paragraph will be used in addition to the reserve on the policy for the purpose of computing the period of extended term insurance or the amount of paid-up insurance as provided in §§ 8.29 and 8.30, respectively. Any dividend credit of a person who no longer has insurance in force by payment or waiver of premiums will be paid in cash to such person. If a person has a dividend credit option on a lapsed level premium term policy or a permanent plan policy on which extended term insurance has expired and such person has another policy in force by payment or waiver of premiums, any dividend credit or unpaid dividends on the lapsed policy, in the absence of instructions from the insured to the contrary, will be transferred to the policy which is in force and will be held on such policy as a dividend credit. Such dividend credit will be deemed to have accrued on the policy which is in force. Upon maturity of the policy, any dividend on deposit, any unpaid dividend payable in cash, and any dividend credit accruing from such policy which cannot be used to pay premiums will be paid to the person currently entitled to receive payments under the policy. If the policy is not in force at death, any such unpaid dividends and dividend credits will be paid to the insured's estate.

(72 Stat. 1114; 38 U.S.C. 210)

These VA Regulations are effective January 1, 1964.

Approved: November 18, 1963.

By direction of the Administrator.

[SEAL]

W. J. DRIVER,
Deputy Administrator.

[F.R. Doc. 63-12263; Filed, Nov. 22, 1963; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Horicon National Wildlife Refuge, Wisconsin

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

WISCONSIN

HORICON NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Horicon National Wildlife Refuge, Wisconsin, is permitted on all the refuge area except that portion designated by signs as closed. The open area, comprising 20,400 acres or 98 percent of the total refuge area, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minnesota, 55408. Hunting shall be subject to the following conditions:

(a) Species permitted to be taken: White-tailed deer only, during the season specified below.

(b) Open season: From one-half hour before sunrise to sunset December 7 through December 31, 1963.

(c) Bag limit: One deer, of any age or sex, per person per season.

(d) Methods of hunting:

(1) Weapons—Bows and arrows only. Bows must have a pull of not less than 30 pounds. Arrows must have well sharpened metal broadhead blades not less than seven-eighths of an inch long and not more than one and one-half inches in width. Arrows with poisoned or explosive points may not be used. Bows held or released by mechanical means may not be used.

(e) Other provisions:

(1) The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

(2) A Federal permit is not required to enter the public hunting area.

(3) The provisions of this special regulation are effective to January 1, 1964.

R. W. BURWELL,
Regional Director, Bureau of
Sport Fisheries and Wildlife.

NOVEMBER 18, 1963.

[F.R. Doc. 63-12251; Filed, Nov. 22, 1963; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER A—ARMED SERVICES PROCUREMENT REGULATIONS

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

The following amendments to this subchapter are issued by direction of the Assistant Secretary of Defense (Installations and Logistics) pursuant to the authority contained in Department of Defense Directive No. 4105.30, dated March 11, 1959 (24 F.R. 2260), as amended, and 10 U.S.C. 2202, and have the concurrence of the military departments.

PART 1—GENERAL PROVISIONS

1. New § 1.201-22 is added and §§ 1.302-2 and 1.302-3 are revised, as follows:

§ 1.201-22 Classified procurement.

Classified procurement is that which requires access to classified information ("Confidential", including "Confidential—Modified Handling Authorized", or higher) either to submit a bid or proposal or to perform the contract or that which because of other considerations should not be publicly disclosed; see § 1.320.

§ 1.302-2 Sources outside the government.

Irrespective of whether the procurement of supplies or services from sources outside the Government is to be effected by formal advertising or by negotiation, competitive proposals ("bids" in the case of procurement by formal advertising, "proposals or quotations" in the case of procurement by negotiation) shall be solicited (see Subpart J of this part) from all such qualified sources of supplies or services as are deemed necessary by the contracting officer to assure such full and free competition as is consistent with the procurement of types of supplies and services necessary to meet the requirements of the military department concerned, and thereby to obtain for the Government the most advantageous contract—price, quality, and other factors considered.

§ 1.302-3 Production and research and development pools.

(a) *Description.* A production or research and development pool is a group of concerns (1) who have associated together for the purpose of obtaining and performing jointly, or in conjunction with each other, contracts for supplies or services, or for research and development, for Defense use (2) who have entered into a pool agreement governing their organization, relationship, and procedure, and (3) whose agreement has been approved either in accordance with section 708 of the Defense Production Act of 1950, as amended (Defense Production Pool) or in accordance with sections 9(d) or 11 of the Small Business Act, P.L. 85-536 (Small Business Pools). Pool participants are exempt from the "manufacturer or regular dealer" requirement of the Walsh-Healey Public

Contracts Act. (See Subpart F of Part 12 of this subchapter.) Information on types of small business production pools, their purpose, and procedures for establishing such pools and for securing their approval by the Small Business Administration (SBA) is contained in the SBA publication "Small Business Production Pools for Defense".

(b) *General rule.* Except as provided in this section, a pool shall be treated for purposes of Government procurement on exactly the same basis as any other prospective or actual contractor.

(c) *Ascertainment of status.* The contracting officer is responsible for ascertaining whether a group of firms seeking to do business with the Government is a pool. In ascertaining the status of a group representing that it is a pool, contracting officers may rely on a copy of the SBA or Office of Emergency Planning (OEP) notification of approval of the pool. If the contracting officer has any question as to whether a given pool has been approved, he shall consult the regional office of the SBA. Each department will expeditiously disseminate to contracting officers information received from SBA or OEP concerning the approval of pools.

(d) *Contracting with pools.* (1) A bid or proposal of a pool is not eligible for award to the pool unless submitted either by the pool in its own name or by an individual member expressly disclosing that it is on behalf of the pool. Except as to contracts to be awarded to incorporated pools, the contracting officer shall prior to award to a pool require to be deposited with him a certified copy of a power of attorney from each member of the pool who is to participate in the performance of the contract authorizing an agent to execute the bid, proposal, or contract on behalf of such member. A copy of each such power of attorney shall be appended to each executed copy of the contract retained by the Government.

(2) *Membership in a pool shall not of itself preclude individual members from submitting bids or proposals as individuals on appropriate procurements.* Bids or proposals submitted by an individual member of a pool shall not be considered when the individual member has participated in the bid or proposal submitted by the pool.

(e) *Responsibility of pool member.* Where a member of a production pool has submitted a bid or proposal in its own name and not on behalf of a pool, the pool agreement shall be a factor to be considered in determining its responsibility pursuant to Subpart I of this part.

(f) *Small business status.* Approval of an organization as either a defense production or research and development pool or a small business production or research and development pool does not automatically confer upon such pools the preferences and privileges accorded to "small business concerns". Such consideration shall be accorded only to those pools which have also been designated as small business concerns by SBA.

2. In § 1.308(b), subparagraph (3) is revised; in § 1.319, paragraph (b) is revised; and new §§ 1.320 and 1.321 are added, as follows:

§ 1.308 Records of contract actions.

(b) * * *

(3) The list of sources solicited or justification for limiting such sources and a list of any firms or persons whose requests for copies of the solicitation were denied, together with the reasons for denial;

§ 1.319 Renegotiation performance reports.

(b) *Maintenance of renegotiation information in contract files.* The contracting officer shall include in the file of each contract information pertaining to the extent and effectiveness of competition obtained in the negotiation and award of the contract, the reasonableness of the prices and profits negotiated, any target and incentive formulae incorporated in the contract, the extent of risk assumed by the contractor, the contractor's efficiency in performance of the contract, and any other information which would facilitate compilation of the performance reports described in paragraph (c) of this section. This is particularly important in the case of incentive type contracts where the question may be raised as to whether additional profits paid to the contractor by operation of the incentive provisions have been earned. To insure the collection of accurate and detailed information, the aforementioned data shall be included in the contract file as soon as it becomes available. The foregoing is not applicable to:

(1) Purchases made pursuant to the provisions of Subpart F of Part 3 of this subchapter;

(2) Delivery orders placed under Federal Supply Schedule contracts; and

(3) Those contracts known to be exempt from renegotiation.

§ 1.320 Industrial security.

Certain required procedures designed to safeguard classified defense information are set forth in the Armed Forces Industrial Security Regulation (AR 380-130, OPNAV Instruction 5540.8B, AFR 205-4) (hereinafter cited as AFISR), and DD Form 441 "Security Agreement" and its attachment, the Department of Defense Industrial Security Manual, together with supplements thereto. Security requirements governing work to be performed outside the United States, its possessions, and Puerto Rico by United States or foreign nationals, or work to be performed in the United States by foreign nationals (including companies located in the United States which are owned, controlled, or influenced by nationals of a foreign country), are subject to security agreements which the United States maintains with a number of foreign countries. The requirements of these agreements are set forth in the AFISR.

§ 1.321 Procurements involving work to be performed in foreign countries.

Prior to entering into a contract which requires work to be performed in a foreign country by personnel of a United

States contractor, coordination shall be effected with the appropriate component Commander of the unified Command concerned to assure compliance with off-shore procurement policies and country-to-country agreements (see § 1.320). The purchasing activity shall provide the appropriate commander with all essential data, including security requirement and logistic support provisions of the proposed contract.

3. Sections 1.702(b) (2), 1.706-4, 1.706-7 and 1.804-2(d) (1) are revised as follows:

§ 1.702 General policy.

(b) Invitations for bids or requests for proposals shall be sent to all firms on the appropriate list except that where less than a complete list is to be used pursuant to § 2.205-4 of this chapter, a pro rata number of small business suppliers shall be solicited;

§ 1.706-4 Reporting for Department of Commerce Procurement Synopsis.

See § 1.1003-8.

§ 1.706-7 Automatic dissolution of set-asides.

If the entire set-aside portion is not procured by the method set forth in § 1.706-5, as to total set-asides, or in § 1.706-6, as to partial set-asides, the determination referred to in § 1.706-1 is automatically dissolved as to the unawarded portion of the set-aside and such unawarded portion may be procured by advertising or negotiation as appropriate in accordance with existing regulations (see §§ 3.201-2(b) (2) and 3.210-3 of this chapter as to negotiation).

§ 1.804-2 Set-aside procedures.

(d) (1) After the award price for the non-set-aside portion has been determined, negotiations may be conducted for the set-aside portion. Procurement of the set-aside portion shall in all instances be effected by negotiation, with those bidders or offerors who have submitted responsive bids or proposals on the non-set-aside portion at a unit price no greater than 120 percent of the highest award made or to be made on the non-set-aside portion and who are determined to be responsible prospective contractors for the set-aside portion of the procurement. Negotiations shall be conducted in the order of priority indicated in the foregoing notices; provided that, where equal low bids are received on the non-set-aside portion from concerns which are equally eligible for the set-aside portion, the concern which is awarded the non-set-aside portion (under the equal low bid procedures of § 2.407-6 of this chapter) shall have first priority with respect to negotiations for the set-aside portion. The set-aside portion shall be awarded at the highest unit price awarded or to be awarded for the non-set-aside portion. If the entire set-aside portion cannot be awarded by the method described herein, any unawarded portion may be procured by advertising or negotiation, as appropriate,

in accordance with existing regulations (see §§ 3.201-2(b) (1) and 3.210-3 of this chapter as to negotiation).

4. Section 1.1002 is revised and new §§ 1.1002-1, 1.1002-2, 1.1002-3, 1.1002-4, 1.1002-5, and 1.1002-6 are added as follows:

§ 1.1002 Dissemination of information relating to invitations for bids and requests for proposals.

§ 1.1002-1 Availability of invitations for bids and requests for proposals at the contracting office.

A reasonable number of copies of invitations for bids and requests for proposals, which are required to be publicized in the Commerce Business Daily, including specifications and other pertinent information, shall be maintained at the contracting office. Upon request, prospective contractors not initially solicited may be mailed or otherwise provided copies of such invitations for bids or requests for proposals to the extent they are available. Where a solicitation for proposals has been limited as a result of a determination that only a specified firm or firms possess the capability to meet the requirements of a procurement, requests for proposals shall be mailed or otherwise provided upon request to firms not solicited, but only after advice has been given to the firm making the request as to the reasons for the limited solicitation and the unlikelihood of any other firm being able to qualify for a contract award under the circumstances; but see § 4.205-2 of this chapter. In addition, to the extent that invitations for bids or requests for proposals are available, they shall be provided on a "first come-first served" basis, for pick up at the contracting office, to publishers, trade associations, procurement information services, and other members of the public having a legitimate interest therein; otherwise, the contracting office may limit the availability of such information to perusal at the contracting office (for construction, see § 4.102-1 of this chapter). In determining the "reasonable number" of copies to be maintained, the contracting officer shall consider, among other things, the extent of initial solicitation, reproduction costs, the nature of the procurement, whether access to classified matter is involved, the anticipated requests for copies based upon responses to synopses and other means of publication in previous similar situations, and the fact that publishers and others who disseminate information regarding proposed procurements normally do not require voluminous specifications or drawings. With regard to classified procurements, the foregoing instructions apply to the extent consistent with departmental security instructions and procedures.

§ 1.1002-2 Limited availability of certain specifications, plans, and drawings.

Where the purchasing activity is not in possession of complete sets of specifications, plans, and drawings (as in some procurements of airframes, shipbuilding, or major weapons systems), or the draw-

ings and specifications are classified, or are so voluminous that display and distribution in accordance with §§ 1.1002 through 1.1002-6 is impracticable, the solicitation shall contain notice of this fact and of the locations at which the specifications, plans, or drawings may be examined (see § 1.1203).

§ 1.1002-3 Distribution to the Small Business Advisory Service Center.

A copy of each unclassified invitation for bids issued in the United States, a copy of each unclassified request for proposals, and a copy of each letter solicitation (including all documents affixed to the invitation for bid, request for proposal, or letter of solicitation, except copies of drawings and specifications) issued in the United States and required to be publicized in the Commerce Business Daily, and a copy of every amendment to each such invitation for bids or request for proposals, shall be sent directly, on the date issued, to the Small Business Advisory Service Center, Small Business Administration, 811 Vermont Avenue NW., Washington, D.C., 20416. This center is maintained to provide information to all persons having an interest in Government procurement opportunities.

§ 1.1002-4 Displaying in public place.

A copy of each solicitation for an unclassified procurement in excess of \$2,500 shall be displayed at the contracting office, and, if appropriate, at some additional public place (other than the Small Business Advisory Service Center) from the date issued until seven days after bids or proposals have been opened.

§ 1.1002-5 Information releases to newspapers and trade journals.

A brief announcement of the proposed purchase may be made available to newspapers, trade journals, and magazines for publication without cost to the Government.

§ 1.1002-6 Paid advertisements in newspapers and trade journals.

(a) *Scope.* This section implements 5 U.S.C. 22a; 44 U.S.C. 321, 322, and 324; and Title 7, Chapter 5200, General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies.

(b) *Definition.* As used in this paragraph 1-1002.6, "newspaper" means a publication printed and distributed at stated intervals to convey news and includes trade journals which carry news in addition to technical matter.

(c) *General.* Generally, paid advertisements in newspapers shall not be used. However, when time will permit, the publication of essential details of invitations for bids in newspapers as paid advertisements may be authorized, as indicated below, when necessary to secure effective competition, provided written authority to advertise has been obtained in advance.

(d) *Limitation.* No advertisement of a proposed procurement shall be published in any newspaper published and printed in the District of Columbia unless the supplies are to be furnished for use, or the labor is to be performed, in

RULES AND REGULATIONS

the District of Columbia or in the adjoining counties of Maryland or Virginia.

(e) *Authority and delegation.* Authority to approve the publication of paid advertisements in newspapers is vested by statute in the Secretary of each Department. This authority may be delegated by the Secretary in writing, by position designation, to subordinates within his Department. The delegation shall specify the limitations, if any, of the authority granted. Administrative duties involved in accomplishing the advertising may be assigned by the delegate to subordinates, by name or position, by suitable instruments in writing, personally signed by the delegate, setting forth the extent of the administrative duties involved. A copy of the instrument delegating authority to advertise and a copy of the instrument assigning administrative duties thereunder will either be attached to the first voucher submitted for payment or shall be forwarded immediately upon issuance of the General Accounting Office address to which records of the Department are submitted for audit purposes. Copies of such instruments shall also be attached to the duplicate voucher submitted to the paying office pursuant to paragraph (1) of this section.

(f) *Request for authority to place advertisement.* (1) Special or general authority to place advertisements in newspapers must be secured in advance and as prescribed by each Department. Special authority authorizes the publication of a given advertisement a specified number of times in a designated newspaper or newspapers. General authority authorizes the publication during a fiscal year, as designated, as such advertisements for bids as may be required by the duties of officers engaged in making frequent purchases or contracts.

(2) Requests for authority to advertise shall specify the newspapers in which it is deemed advantageous to advertise.

(g) *Preparation of advertisement.*

(1) Except as provided in subparagraph (2) of this paragraph, all advertisements will be set solid, without paragraphing, in accordance with usual Government requirements, a sample of which is shown on Standard Form 1143 (Advertising Order).

(2) When advertising to be set other than solid is purchased, the specifications for such advertising must be definite, clear, and specific. No allowance shall be made for paragraphing, for display leaded or prominent headings, unless specifically ordered, or for additional space required by the use of type other than that specified. Specifications for advertising other than solid will accompany the advertisement copy submitted to the publisher with the advertising order, and copies of both documents will be transmitted to the General Accounting Office with the voucher.

(h) *Insertion.*—(1) *Number of insertions.* No greater number of newspapers or insertions shall be used in any case than is necessary to give proper and sufficient public notice. Ordinarily, advertisements will be given six insertions in daily or four insertions in weekly papers. Such insertions shall be placed

in sufficient time prior to the date of opening of bids to allow interested bidders to obtain plans and specifications and prepare bids. In case of emergency, advertisements may be inserted one or more times, as time and circumstances permit.

(2) *Limitations on time of publications.* No authorization will be given for the publication of an advertisement beyond the morning of the day on which the opening of bids is to occur, and no payments will be made for continuing such publication beyond the period authorized.

(i) *Rates.* Advertising may be paid for at rates not to exceed the commercial rates charged to private individuals, with the usual discounts.

(j) *Proof of publication.* (1) Every voucher rendered for official advertising should be accompanied with a copy of each issue (or tear sheet) of the publication in which the advertisement appeared. However, if copies of the publications (or tear sheets) are not available, an affidavit of publication may be furnished in lieu thereof.

(2) Copies of publications (or tear sheets), or affidavits in lieu thereof, submitted as proof of publication shall be retained in the paying officer's files until settlement of his account by the General Accounting Office, after which they may be disposed of.

(k) *Forms.* (1) Standard Form 1143 (Advertising Order) shall be signed by the person to whom authority to advertise has been delegated, or by the person to whom administrative authority to place the advertising has been assigned (see paragraph (e) of this section). In the latter case, the date and number of such instrument of assignment shall be put in the box on the standard form to the left of the signature. The date and number of the instrument delegating authority to advertise shall be put in the box in the upper right hand corner of the form. See paragraph (g) of this section, with reference to the composition of the advertising copy, in connection with the preparation of this form.

(2) The public voucher will be prepared by publishers to bill their charges against the Department for advertising published in accordance with the advertising order (Standard Form 1143). The Public Voucher for Advertising (original) is printed on the reverse of the original advertising order (Standard Form 1143). The Public Voucher for Advertising (memorandum) is printed on the reverse of the memorandum advertising order (Standard Form 1143a). Separate instruments shall not be used for ordering advertising and the payment therefor. The instructions in paragraph (j) of this section apply when this form is used.

(l) *Payment.* Upon receipt of the public voucher, supported by proof of publication, from a publisher, the officer placing the advertisement will assemble and attach appropriate supporting documents (see paragraph (e) of this section), sign the second certificate on the reverse of Standard Form 1143, and

submit the account in duplicate to the proper paying office for payment.

5. Sections 1.1003-1, 1.1003-2, 1.1003-3, 1.1003-4, 1.1003-6, 1.1003-8 and 1.1003-9 (a), (b), and (e) are revised to read as follows:

§ 1.1003-1 General.

(a) Every proposed advertised or negotiated procurement made in the United States, which may result in an award in excess of \$10,000 shall be publicized promptly in the Commerce Business Daily "Synopsis of U.S. Government Proposed Procurement, Sales and Contract Awards" except for procurements described in paragraphs (b) and (c) of this section.

(b) Classified procurements (Exception 1 in Item 13 Code E of DD Form 350), where the information necessary to be included in the Synopsis would disclose classified information or where the mere disclosure of the Government's interest in the area of the proposed procurement would violate security requirements, shall not be publicized in the Synopsis. All other classified procurements shall be publicized in the Synopsis, even though access to classified matter might be necessary in order to submit a proposal or to perform the contract (see § 1.1003-9(e)(3)). The intent of the exception for classified procurement in the synopsis requirements of Public Law 87-305 is not to exempt every classified procurement from publicizing, but to provide a safeguard against violating security requirements.

(c) The following need not be publicized in the Synopsis (Exceptions 2 through 9 in Item 13, Code E, of DD Form 350):

(1) Procurement of perishable substance.

(2) Procurement of electric power or energy, gas (natural or manufactured), water, or other utility services.

(3) Procurement (whether advertised or negotiated) which is of such urgency that the Government would be seriously injured by the delay involved in permitting the date set for receipt of bids, proposals, or quotations to be more than 15 calendar days from the date of transmittal of the synopsis or the date of issuance of the solicitation, whichever is earlier.

(4) Procurement to be made by an order placed under an existing contract.

(5) Procurement to be made from or through another Government department or agency, or a mandatory source of supply such as an agency for the blind under the blind-made products program.

(6) Procurement of personal or professional services.

(7) Procurement from educational institutions to be negotiated under § 3.205 of this chapter.

(8) Procurement in which only foreign sources are to be solicited.

§ 1.1003-2 Time of publicizing.

To allow concerns which are not on current bidders lists ample time to prepare bids, proposals or quotations, purchasing offices should, when feasible, synopsize proposed procurements at least ten days before the issuance of solicita-

tions, in accordance with § 1.1003-9(b) (8).

§ 1.1003-3 Pre-invitation notices.

Where pre-invitation notices (see § 2.205-4 of this chapter) are used, the pre-invitation information shall be included in the synopsis. This information need not be re-published in the synopsis when the invitation for bids is issued.

§ 1.1003-4 Advance notice for research and development.

In order that potential sources may learn of research and development programs, advance notices of the Government's interest in a specific research and development field shall be published in the Commerce Business Daily in accordance with § 1.1003-9(d) so as to give such sources adequate opportunity to submit information for evaluation of their research and development capabilities, except where security considerations prohibit such publication. Each specific procurement of research and development projects shall be publicized in the Commerce Business Daily unless one of the exceptions in § 1.1003-1 is applicable or unless an advance notice of the Government's requirements in the particular field, published in the Commerce Business Daily in accordance with § 1.1003-9(d), has been sufficiently specific to permit potential sources to request solicitations for the prospective procurement. (See § 4.203 of this chapter.)

§ 1.1003-6 Synopses of subcontract opportunities.

(a) *By contracting officers.* (1) In order to broaden the opportunity in negotiated procurement for subcontracting by small business concerns and others, contracting officers shall, unless not in the Government's interest or subcontracting opportunities do not exist, publish in the Commerce Business Daily the names and addresses of firms to whom requests for proposals are to be issued. This procedure will offer opportunity to small business concerns and others interested in subcontracting to make direct contract with prospective prime contractors at an early stage in the procurement. An addition to the regular synopsis prepared in accordance with § 1.1003-9 shall be made as set forth in § 1.1003-9(f).

(2) Contracting officers shall, unless not in the Government's interest or subcontracting opportunities do not exist, publish in the Commerce Business Daily the names and addresses of firms which have submitted acceptable technical proposals in the first step of two-step formal advertising and will therefore be issued invitations for bids in the second step (see § 2.503 of this chapter). Such lists should be followed by a statement substantially as follows:

It is suggested that small business firms or others interested in subcontracting opportunities in connection with this procurement make direct contact with the above firms.

(b) *By prime contractors and subcontractors.* Prime contractors and subcontractors should be encouraged to use

the Commerce Business Daily to publicize opportunities in the field of subcontracting stemming from their defense business. Prime contractors and their subcontractors will be advised to mail subcontract information directly to the U.S. Department of Commerce (Synopsis), Administrative Service Office, Room 1300, 433 West Van Buren St., Chicago, Ill., 60607, under the heading "Subcontracting Assistance Wanted" and in the form of the following example.

XYZ Co. attn John Z. Smith, Tele. No. RAndolph 6-1111, 102 First Ave., Chicago, Ill., 60607, seeks Subcontractor on items to be used in connection with Contract No. ----- awarded -----

(Date)

Coils, induction, dwg. No. 10-742.. 10,000 ea.

(Name, description, and quantity of other items or services may be included as long as contract assistance is desired under the same contract number)—If interested, make inquiry before ----- to above contractor.

(Date)

§ 1.1003-8 Responsibility of small business specialists.

Small business specialists in each purchasing office are responsible for screening all proposed procurements and for recommending action to be taken with respect to publicizing such procurements in accordance with the requirements of this paragraph §§ 1.1003 through 1.1003-9. In those offices where no small business specialist is assigned, the contracting officer or other designated representative shall accomplish the foregoing.

§ 1.1003-9 Preparation and transmittal.

(a) Each purchasing office shall transmit a synopsis of proposed procurements as follows:

(1) When teletypewriter service is available, all synopses shall be forwarded daily as soon as practical via teletypewriter covering invitations for bids, requests for proposals or quotations issued on that day, or at the earliest practical time prior to issuance of the invitation for bids, requests for proposals or quotations, as is deemed appropriate, to the following address.

Synopsis (Attn: RUCMDW),
U.S. Department of Commerce,
Administrative Service Office,
Chicago, Illinois.

(2) When teletypewriter service is not available, synopses shall be dispatched by airmail or ordinary mail, whichever is considered most expeditious, addressed as follows:

U.S. Department of Commerce (Synopsis),
Administrative Service Office,
Room 1300,
433 West Van Buren Street,
Chicago, Illinois, 60607.

(b) Each synopsis shall be prepared as described below:

(1) Lines in the text commencing flush with left margin will not exceed 69 typewritten spaces. Double spaced lines will be used to describe each procurement action. Descriptions of different procurement actions will be distinguished by indenting the first line 5 spaces.

(2) The first line of the text of the message will state the number of the synopsis being sent. Synopses will be numbered con-

secutively by the purchasing office during the calendar year. New numerical series beginning with number one will start as of the first working day of January of each year. Double space between this line and the next line.

(3) The second line of the text of the message will state name and location of the purchasing office straight across the page, not to exceed 69 typewritten spaces. No abbreviations are to be used except for name of State. If more than one line is required for name and location of purchasing office, double space and continue on subsequent line or lines if necessary, double spacing between each line. The address may include an attention phrase directed to an official by name or title.

(4) Four spaces below the preceding line entry (name and address of purchasing office), indent 5 spaces. Using the Department of Defense Procurement Coding Manual, Section I of Volume I, Commodities and Services Reported on DD Form 350, select code applicable to procurement action and insert as appropriate:

(i) "EDTR", for any procurement classified under Part A;

(ii) The single letter code for procurement actions classified under Part B (use "Z" for services which do not fall within the categories cited in Part B); or

(iii) The first two digits of the 4-digit code for procurement actions classified under Part C of the Manual.

If more than one classification is applicable to the procurement action, enter the code accounting for the largest dollar volume of the procurement. Two hyphens will be inserted after the code followed by a description of the supplies or services being procured stated in narrative paragraph form, double spaced, with each line commencing flush with the left margin. The length of the lines in the description will not exceed 69 typewritten spaces. The description will be clear, concise, and with a minimum number of words but sufficient for understanding by interested parties. It will include, as appropriate, commonly used names of supply items, basic materials from which fabricated, general size or dimensions, citations of specification or drawing numbers, or other data. If the material being procured is covered by one or more specifications requiring qualification testing and approval and such requirement has not been waived by competent authority, the notation "(QPL)" shall be inserted immediately following the specification number. The Federal stock number will also be included where one has been assigned. In the absence of a Federal stock number, the service stock number will be included where one has been assigned. However, where more than six items are listed in the synopsis, stock numbers will be listed only for the six items of highest value. No abbreviations will be used in describing supplies or services, although standard abbreviations may be used in listing the quantity purchase reference numbers, specifications and bid opening date. Punctuation symbols will be used as in normal correspondence. Fractions on typewriter keys will not be used but fractions may be expressed by (number)/(number) e.g., 11/16, 1/4, 1/2. The symbols # or @ or * may not be used since they are not used in teletypewriter operation.

(5) Following the complete description of the supplies or services which will end with a period, two hyphens will be used to set off the quantity to be procured. The quantity usually will be stated in numerals followed by the unit (abbreviations of units are permissible, e.g., lbs., ea., doz.). Whenever it is necessary to use "Indefinite Quantity," the description should include a statement as to the duration of the contract or period covered.

RULES AND REGULATIONS

(6) The quantity will be followed by two hyphens before indicating the place of delivery as follows: "Deliveries to -----". Places of delivery should be stated specifically when there are not more than three destinations. When delivery points are more numerous, they will be grouped, if practicable, to show the general geographic area, e.g., "West Coast", "East Coast", or other appropriate regional description. Otherwise, the places of delivery will be stated as "Various Destinations" or "Destination(s) to be furnished".

(7) The places of delivery will be followed by two hyphens before commencing with the invitation for bids number or other purchase reference number, which may consist of letters, numerals, or abbreviations separated by hyphens or spaces. Invitation for bids numbers shall be identified and followed by the letter "B"; request for proposals and request for quotations numbers shall be followed by the letter "Q." Purchase reference numbers should not be broken or appear on one line carried over on the subsequent line, as the insertion of a hyphen for the carry-over would change the reference number.

(8) Two hyphens will be used following the invitation for bids number or purchase reference number to set off the bid opening date or the advance notification date. The date should be stated in military style (date, month and year, e.g., 1 Aug 63). If the synopsis is published prior to issuance of the invitation for bids or request for proposals or quotations, the synopsis shall include a statement to the effect that requests for such invitations, proposals or quotations should be received not later than 10 days from the date of publication of such synopsis in order to enable the purchasing office to mail such invitation for bids, request for proposals, or request for quotations directly to the inquirer at the time of issuance thereof.

(e) Certain procurements involve demands on the contractor which may make it virtually impossible for concerns not having special capabilities or qualifications to compete realistically for the contract. So as to alert such concerns to the need for special capabilities or qualifications and thus permit them to avoid improvident expenditures for bid preparation and the like, procurements for which (1) it is impracticable to distribute plans, drawings or specifications, (2) adequate plans, drawings or specifications to describe requirements are not available, (3) security clearance is required, or (4) other circumstances exist which should be brought to the attention of prospective sources for consideration in order to clearly indicate those qualifying factors affecting the procurement, should be so identified in the synopsis. Appropriate notations for inclusion in the synopsis, such as set forth below, should be devised to meet the needs of specific situations.

(1) Availability of Specifications, Plans or Drawings:

It will be impracticable to distribute the applicable -----

(Insert "specifications," "plans," "drawings" or other appropriate words)

with the solicitation. This data may be examined or obtained at -----

(Be specific)

(2) Complete Data Not Available:

Available specifications, plans, or drawings, relating to the procurement described below

do not fully provide all necessary manufacturing and construction details.

(3) Security Requirements:

Security clearance will be required of all bidders or offerors (or of the successful bidder or offeror).

(4) Availability of Background Research Report:

This procurement of basic research is a continuation of an effort conducted for the past ----- A research report

(Insert period) containing findings to date is not available to the Government.

(5) Production Requirements:

The production of the supplies listed requires a substantial initial investment or an extended period of preparation for manufacture.

6. Section 1.1004 is revised; § 1.1004-1 is revoked; and §§ 1.1005, 1.1005-1 and 1.1005-2 are revised as follows:

§ 1.1004 Disclosure of information prior to award.

A high level of business security must be maintained in order to preserve the integrity of the procurement process. Occasionally, it is necessary to contact potential contractors and others outside the Department of Defense to obtain information regarding wage rates, material costs, and the like, in order to prepare Government estimates in connection with proposed procurements; however, these estimates and other details regarding such proposed procurements shall not be publicized nor discussed with prospective contractors. Maximum information will be made available to the public except (a) advance information on proposed plans regarding procurements, which information would provide undue or discriminatory advantage to private or personal interests, (b) information which is received in confidence, or (c) information which requires protection in the public interest. Information submitted by the bidder or offeror in confidence, and information which might jeopardize the position of the Government or any prospective contractor shall not be released outside the Department of Defense, except as provided in §§ 1.1006(a) and 3.106 of this chapter. (See § 1.705-4 as to information to be released to the SBA.)

§ 1.1004-1 Preparation and transmittal. [Revoked]

§ 1.1005 Publicizing award information.

§ 1.1005-1 Synopsis of contract awards.

(a) *General.* Awards of all unclassified contracts to be performed in whole or in part within the United States, exceeding \$25,000 in amount, shall be published in the Commerce Business Daily "Synopsis of U.S. Government Proposed Procurement, Sales and Contract Awards."

(b) *Preparation and transmittal.* (1) Purchasing officers shall prepare and forward single copies of synopses of contract awards, using the same format as prescribed for synopses of proposed procurements in § 1.1003-9, to the address below, by airmail or ordinary mail whichever is considered most expeditious, before the close of business at the end of each week.

U.S. Department of Commerce (Synopsis)
Administrative Service Office
Room 1300
433 West Van Buren Street
Chicago, Illinois, 60607.

(2) The synopsis of contract awards shall contain the following information:

(i) The name and address of purchasing office;
(ii) The classification code applicable to the procurement action;
(iii) A clear and concise description of the supplies or services being procured, such description to be followed by the contract number and date and, in parentheses, by the applicable number of the invitation for bids or request for proposals;

(iv) The quantity of each item;
(v) The dollar amount of the award;
(vi) The name and full address of the contractor;

(vii) For FOB destination procurement when total shipments from a point of origin to a point of destination will exceed 200,000 pounds and destinations are firm—

(a) Origin point of shipment when different from subdivision (vi) of this subparagraph;

(b) CONUS destination of shipment (see § 1.1003-9(b)(6)); and

(c) Scheduled delivery period (beginning and ending dates); and

(viii) When requested by the prime contractor, a statement of the industries, crafts, processes, or component items in or for which subcontracts are available and subcontractors are desired, together with the general area, if any, indicated by the prime contractor, such as Southeast States, West Coast, New England.

§ 1.1005-2 Other publication of award information.

In addition to the Synopsis required above, contract awards may be the subject of press releases or other public announcements. When such press releases or public announcements are made, for procurements of \$10,000 or more, they shall include the following information:

(a) For awards after formal advertising, state that the contract was awarded after competition by formal advertising and include the number of bids solicited and the number received, and state in general terms the basis for selection, e.g., the lowest responsible bidder.

(b) For awards after procurement by negotiation, include the information contained in the notice prescribed by § 3.106(b)(1) of this chapter and where the award was made after competitive negotiation (either price or design competition), include a statement to this effect and state in general terms the basis for selection.

7. Sections 1.1005-3, 1.1005-4, 1.1005-5, 1.1005-6, 1.1005-7, 1.1005-8, 1.1005-9, 1.1005-10, 1.1005-11 and 1.1005-12 are revoked, as follows:

§ 1.1005-3 General. [Revoked]

§ 1.1005-4 Limitation. [Revoked]

- § 1.1005-5 Authority and delegation. [Revoked]
- § 1.1005-6 Request for authority to place advertisement. [Revoked]
- § 1.1005-7 Preparation of advertisement. [Revoked]
- § 1.1005-8 Insertions. [Revoked]
- § 1.1005-9 Rates. [Revoked]
- § 1.1005-10 Proof of publication. [Revoked]
- § 1.1005-11 Forms. [Revoked]
- § 1.1005-12 Payment. [Revoked]

8. Section 1.1006 is revised; §§ 1.1006-1 and 1.1006-2 are revoked; and §§ 1.1101 (c) and 1.1105 are revised, as follows:

§ 1.1006 Members of Congress.

(a) *Individual procurement information.* In addition to having access to that information available to members of the public, Members of Congress upon their request, shall be given detailed information regarding any particular Department of Defense procurement. The information given shall be responsive to the congressional request; however, where responsiveness would result in disclosure of classified matter, business confidential information, or information which would be prejudicial to competitive procurement, the proposed reply, with full documentation, shall be referred to the Secretary of the Department concerned, and the appropriate legislative liaison office shall be informed. When a proposed reply is to be so referred to a Secretary, an interim reply shall be made to the congressional request indicating the action being taken.

(b) *Inclusion on bidders mailing lists.* Any member of any Committee or Subcommittee of the Congress which is interested in procurement matters shall, upon request of the Committee or Subcommittee Chairman, be placed on applicable bidders mailing lists to receive automatic distribution of bid and proposal information in the specified area of interest.

§ 1.1006-1 Awards after formal advertising. [Revoked]

§ 1.1006-2 Awards after procurement by negotiation. [Revoked]

§ 1.1101 General.

(c) Specifications which require products to be tested and qualified are identified in the Department of Defense Index of Specifications and Standards Chapter IV, Defense Standardization Manual (M200) is the basic directive concerning the qualified products and qualification procedures. Copies of the Index and the Manual may be obtained by the public from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402.

§ 1.1105 Opportunity for qualification.

Upon determination that a product is to be covered by a qualified products list, manufacturers shall be urged to submit their products for qualification and where possible shall be given sufficient time to arrange for qualification testing prior to issuance of the initial invitation

for bids or request for proposals for the item as a qualified product. Appropriate notice of such determination shall be furnished to the U.S. Department of Commerce (Synopsis), Administrative Service Office, Room 1300, 433 West Van Buren Street, Chicago, Illinois, 60607, for publication in the daily "Synopsis of U.S. Government Proposed Procurement, Sales and Contracts Award". The publicity given to the requirement for qualification testing shall include the following:

(a) An intention to establish a qualified products list for a product;

(b) The specification number and nomenclature of the product, and the name and address of the office to which the request for qualification should be submitted; and

(c) Notice that in making future awards consideration shall be given only to such products as have been accepted for inclusion in a qualified products list.

Lists shall always be kept open for inclusion of products from additional suppliers.

PART 2—PROCUREMENT BY FORMAL ADVERTISING

9. In § 2.201(a), subparagraphs (25) and (27) are revised and §§ 2.203-1, 2.203-2, 2.203-3, and 2.205-5(c) are revised to read as follows:

§ 2.201 Preparation of invitation for bids.

(a) ***
 (25) Pending revision of paragraph 4 of the Terms and Conditions of the Invitation for Bids on the back of Standard Form 30 (October 1957 edition) and Standard Form 33 (October 1957 edition) and of paragraph 7 of Standard Form 22 (January 1961 edition), the following provision shall be substituted, as to each form, for the cited paragraph:

LATE BIDS AND MODIFICATIONS OR WITHDRAWALS (AUG. 1963)

(a) Bids and modifications or withdrawals thereof received at the office designated in the invitation for bids after the exact time set for opening of bids will not be considered unless:

(i) they are received before award is made; and either

(ii) they are sent by registered mail, or by certified mail for which an official dated post office stamp (postmark) on the original Receipt for Certified Mail has been obtained, or by telegraph if authorized; and it is determined by the Government that the late receipt was due solely to delay in the mails, or delay by the telegraph company, for which the bidder was not responsible; or

(iii) if submitted by mail (or by telegram if authorized), it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation; provided, that timely receipt at such installation is established upon examination of an appropriate date or time stamp (if any) of such installation, or of other documentary evidence of receipt at such installation (if readily available) within the control of such installation or of the postoffice serving it.

However, a modification which makes the terms of the otherwise successful bid more favorable to the Government will be considered at any time it is received and may thereafter be accepted.

(b) Bidders using certified mail are cautioned to obtain a legibly postmarked, dated Receipt for Certified Mail and retain it against the chance that the postmark thereon will be required as evidence that a late bid was timely mailed. If the postmark on such receipt, or on the registered mail wrapper, shows the hour of mailing as well as the date, the time of mailing shall be established accordingly; if it shows the date but not the hour, the time of mailing shall be deemed to be the last minute of the date shown; unless the bidder furnishes evidence from the post office of mailing which, (i) in the case of registered mail, establishes an earlier time; or (ii) in the case of certified mail, where the Receipt for Certified Mail identifies the post office station of mailing, establishes that the business day of that station ended at an earlier time, in which case, the time of mailing shall be deemed to be the last minute of the business day of that station. If any such Receipt for Certified Mail does not show the date, the bid shall not be considered.

(27) A statement substantially as follows (prominently placed in the invitation):

CAUTION TO BIDDERS—LATE BIDS

See the special provision entitled "Late Bids and Modifications or Withdrawals" which provides that late bids and modifications or withdrawals thereof sent through the mails ordinarily will be considered only if timely mailed by registered mail or by certified mail for which a postmarked receipt has been obtained as specified in such provision (Aug. 1963).

§ 2.203-1 Mailing or delivery to prospective bidders.

Invitations for bids (or pre-invitation notices) shall be mailed (or delivered) to a sufficient number of prospective bidders so as to elicit adequate competition and, in accordance with § 1.1002-1 of this chapter, may be provided to others having a legitimate interest to the extent invitations for bids are available.

§ 2.203-2 Displaying in public place.

Copies of unclassified invitations for bids shall be displayed at the purchasing office or at some other appropriate public place. (See § 1.1002-1 of this chapter, for availability of such copies to interested persons.)

§ 2.203-3 Publicity in newspapers and trade journals.

(a) *Free publicity.* A brief announcement of the proposed purchase may be made available for free publication to newspapers and to trade journals and magazines. Copies of unclassified invitations for bids for construction projects may be furnished to trade journals for the construction field, except that drawings, specifications, general and special provisions will not be so furnished.

(b) *Paid advertisements.* See § 1.1002-6 of this chapter.

§ 2.205-5 Release of bidders mailing lists.

(c) A list of firms which have submitted acceptable technical proposals in the first step of two-step formal advertising will be listed in the Commerce Business Daily for the benefit of prospective subcontractors in accordance with § 1.1003-6 (a) (2) of this chapter.

10. Sections 2.302, 2.303-2 and 2.303-3 are revised; the introductory portion of § 2.303-6 is revised; and §§ 2.304 and 2.305 are revised, as follows:

§ 2.302 Time of bid submission.

Bids shall be submitted so as to be received in the office designated in the invitation for bids not later than the exact time set for opening of bids. Where telegraphic bids are authorized, a telegraphic bid received in such office by telephone from the receiving telegraph office not later than the time set for opening of bids shall be considered if such bid is confirmed by the telegraph company by sending a copy of the telegram which formed the basis for the telephone call.

§ 2.303-2 Consideration for award.

A late bid shall be considered for award only if:

(a) It is received before award; and either

(b) It was sent by registered mail, or by certified mail for which an official dated post office stamp (postmark) on the original Receipt for Certified Mail has been obtained, or by telegraph if authorized, and it is determined that the lateness was due solely to a delay in the mails (based on evidence pursuant to § 2.303-3), or to a delay by the telegraph company for which the bidder was not responsible; or

(c) If submitted by mail (or by telegram where authorized), it was received at the Government installation in sufficient time to be received at the office designated in the invitation by the time set for opening and, except for delay due to mishandling on the part of the Government at the installation, would have been received on time at the office designated. The only evidence acceptable to establish timely receipt at the Government installation is that which can be established upon examination of an appropriate date or time stamp (if any) of such installation, or of other documentary evidence of receipt at such installation (if readily available) within the control of such installation or of the post office serving it.

§ 2.303-3 Mailed bids.

(a) *Registered mail.* The time of mailing of a late bid mailed by registered mail shall be determined by the date, and hour if shown, in the postmark. If the postmark shows the date but not the hour of mailing, the time of mailing shall be deemed to be the last minute of the date shown unless the bidder furnishes evidence from the post office of mailing which establishes an earlier time. If the postmark does not show the date of mailing, the bid shall be deemed to have been mailed too late unless the bidder furnishes evidence from the post office of mailing which establishes a timely date.

(b) *Certified mail.* The time of mailing of a late bid mailed by certified mail for which a postmarked receipt for certified mail was obtained shall be determined by the official post office stamp (postmark) on the original receipt for certified mail, to be furnished by the

bidder, showing the date of receipt by the post office at the time of mailing. If this postmark shows the hours of mailing as well as the date, the time of mailing shall be established accordingly; if it shows the date but not the hour, the time of mailing shall be deemed to be the last minute of the date shown, except that, where the receipt for certified mail identifies the post office station of mailing and the bidder furnishes evidence from the post office station of mailing that the business day of that station ended at an earlier time, the time of mailing shall be deemed to be the last minute of the business day of that station. If this postmark does not show the date of mailing, the bid shall be deemed to have been mailed too late.

(c) *Delivery time.* Information concerning the normal time for mail delivery shall be obtained by the purchasing activity from the postmaster, superintendent of mails, or a duly authorized representative for that purpose, of the post office serving that activity. When time permits, such information shall be obtained in writing.

§ 2.303-6 Notification to late bidders.

Where a late bid is received and it is clear from available information that under § 2.303-2 such late bid cannot be considered, the contracting officer or his authorized representative shall promptly notify the bidder that his bid was received late and will not be considered (see also § 2.303-7). However, where a late bid is transmitted by registered mail and received before award but it is not clear from available information whether the bid can be considered, or in any case of a late bid transmitted by certified mail received before award, the bidder shall be promptly notified substantially as follows:

§ 2.304 Modification or withdrawal of bids.

(a) Bids may be modified or withdrawn by written or telegraphic notice received in the office designated in the invitation for bids not later than the exact time set for opening of bids. A telegraphic modification or withdrawal of a bid received in such office by telephone from the receiving telegraph office not later than the time set for opening of bids shall be considered if such message is confirmed by the telegraph company by sending a copy of the telegram which formed the basis for the telephone call. Modifications received by telegram including a record of those telephoned by the telegraph company shall be sealed in an envelope by a proper official who shall write thereon the date and time of receipt and by whom, the invitation for bid number, and his signature. No information contained herein shall be disclosed prior to the time set for bid opening. See § 2.401 for receipt and safeguarding of modifications.

(b) A bid may be withdrawn in person by a bidder or his authorized representative: *Provided*, His identity is made known and he signs a receipt for the bid, but only if the withdrawal is prior to the exact time set for opening of bids.

§ 2.305 Late modifications and withdrawals.

Modifications of bids and requests for withdrawal of bids which are received in the office designated in the invitation for bids after the exact time set for opening are "late modifications" and "late withdrawals", respectively. A late modification or late withdrawal shall be subject to the rules and procedures applicable to late bids set forth in § 2.303. However, a late modification of the otherwise successful bid shall be opened at any time it is received; and if in the judgment of the contracting officer it makes the terms of the bid more favorable to the Government, it shall be considered.

11. In § 2.405, revise the introductory portion and paragraph (d) (2); revise §§ 2.407-6, 2.407-7, and 2.409; revise subparagraph (6) in § 2.503-1(a); and in § 2.503-2, revise paragraph (d) as follows:

§ 2.405 Minor informalities or irregularities in bids.

A minor informality or irregularity is one which is merely a matter of form or is some immaterial variation from the exact requirements of the invitation for bids, having no effect or merely a trivial or negligible effect on price, and no effect on quality, quantity, or delivery of the supplies or performance of the services being procured, and the correction or waiver of which would not affect the relative standing of, or be otherwise prejudicial to, bidders. The contracting officer shall either give to the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid, or, waive any such deficiency where it is to the advantage of the Government. Examples of minor informalities or irregularities include:

(d) ***
(2) The amendment clearly would have no effect or merely a trivial or negligible effect on price, and no effect on quality, quantity, delivery, or the relative standing of bidders, such as an amendment correcting a typographical mistake in the name of the Government purchasing activity; and

§ 2.407-6 Equal low bids.

(a) (1) Where two or more low bids are equal in all respects, considering all factors except the priorities set forth in subparagraph (2) of this paragraph, award shall be made in accordance with the order of priorities therein. Where two or more low bids are equal in all respects, considering all factors including the priorities set forth in subparagraph (2) of this paragraph, award shall be made by a drawing by lot which shall be witnessed by at least three persons and which may be attended by the bidders or their representatives, subject to subparagraph (3) of this paragraph.

(2) For the purposes of subparagraph (1) of this paragraph, preference shall be given in the following order of priority:

(i) Persistent labor surplus area concerns (§ 1.801 of this chapter) that are

also small business concerns (§ 1.701 of this chapter);

(ii) Other persistent labor surplus area concerns;

(iii) Substantial labor surplus area concerns (§ 1.801 of this chapter) that are also small business concerns;

(iv) Other substantial labor surplus area concerns;

(v) Other small business concerns.

(3) If the application of the priorities in subparagraph (2) of this paragraph results in two or more bidders being eligible for award, the award shall be made to the concern that will make the most extensive use of small business subcontractors, rather than by drawing lots. If two or more bidders still remain eligible for award, the award shall be made by a drawing by lot limited to such bidders.

(b) When award is to be made by drawing by lot and the information available shows that the product of a particular manufacturer has been offered by more than one bidder, a preliminary drawing by lot shall be made to ascertain which of the bidders offering the product of a particular manufacturer will be included in the final drawing to determine the award.

(c) When an award is determined by drawing by lot, the names and addresses of the three witnesses and the person supervising the drawing shall be placed on all copies of the abstract of bids or otherwise recorded.

(d) In each award where preference is to be given under this part, the contracting officer shall, prior to award, obtain from such concern a written statement that it will perform, or cause to be performed, the contract in accordance with the circumstances justifying the priority.

§ 2.407-7 Statement and certificate of award.

(a) For all contracts made by formal advertising, the contracting officer shall prepare and execute a statement and certificate of award on Standard Form 1036, in accordance with § 16.801 of this chapter. Such certificate shall either state that the accepted bid was the lowest bid received, or list all lower bids received and set forth reasons for their rejection. These reasons shall be set forth in such detail as is necessary to justify the award. For the purposes of this certificate, the lowest bid received is considered to be that bid which is lowest after consideration of price factors only. The cost of transportation to the destination indicated in the invitation for bids, and any acceptable discount offered by a bidder, and if the invitation so specifies, any other Government cost factors, shall be considered price factors in determining the lowest bidder for purposes of this certificate. The foregoing price factors need not be applied to nonresponsive bids; however, each nonresponsive bid shall be listed on Standard Form 1036 if, without consideration of other price factors, it is apparently lower than any bid on which an award was made. The following are representative of low or apparent low bid situations in which there is a requirement to make a report on Standard Form 1036:

- (1) Mistake in bid,
- (2) Violation of covenant against contingent fees (see § 1.508(c) of this chapter),
- (3) Unauthorized agency or undisclosed principal,
- (4) Nonconformity to essential requirements of invitations for bids (see § 2.402-2),
- (5) Lack of bidder responsibility,
- (6) Expiration of the bid acceptance time.

(b) In each case of equal low bids where an award is made pursuant to § 2.407-6(a), the certificate required by this section shall briefly recite the circumstances under which award was made. Where such award is to a small business or a labor surplus area concern the certificate shall state it has been administratively determined that the award will further the Congressional policy with respect to small business expressed in 10 U.S.C. 2301 or will further the policy with respect to labor surplus areas, or both, as the case may be.

(c) Where an award involves a mistake in bid and the matter has been resolved by administrative action, the Standard Form 1036 will be accompanied with (1) a copy of the bidder's verification in the case of an apparent or obvious mistake or (2) the written administrative determination concerning a mistake of the type described in § 2.406-3. Where an award involves a mistake in bid on which the Comptroller General has rendered a decision, the certificate will contain a citation by number and date of the decision or will have a copy attached.

(d) Where an award is made after consideration of a late bid, the certificate will contain a brief statement of the facts supporting such award (see § 2.303-8).

§ 2.409 Synopsis of contract awards.

See § 1.1005-1 of this chapter.

§ 2.503-1 Step one.

(a) *Requests for technical proposals.*

(6) The date by which the proposal must be received and a statement as follows:

LATE TECHNICAL PROPOSALS (AUG. 1963)

(a) Proposals received at the office designated in the request for technical proposals after the close of business on the date set for receipt thereof (or after the time set for receipt, if a particular time is specified) will not be considered unless:

(i) they are received before the invitation for bids in step two is issued; and either

(ii) they are sent by registered mail, or by certified mail for which an official, dated post office stamp (postmark) on the original Receipt for Certified Mail has been obtained, and it is determined by the Government that the late receipt was due solely to delay in the mails for which the offeror was not responsible; or

(iii) if submitted by mail, it is determined that the late receipt was due solely to mishandling by the Government after receipt at the Government installation, *provided*, that timely receipt at such installation is established upon examination of an appropriate date or time stamp (if any) of such installation, or of other documentary evidence of receipt at such installation (if readily available) within the control of such installation or of the post office serving it.

(b) Offerors using certified mail are cautioned to obtain a legibly postmarked, dated receipt for certified mail and retain it against the chance that the postmark thereon will be required as evidence that a late proposal was timely mailed. If the postmark on such receipt, or on the registered mail wrapper shows the hour of mailing as well as the date, the time of mailing shall be established accordingly; if it shows the date but not the hour, the time of mailing shall be deemed to be the last minute of the date shown, unless the offeror furnishes evidence from the post office of mailing which (1) in the case of registered mail, establishes an earlier time; or (ii) in the case of certified mail where the receipt for certified mail identifies the post office station of mailing, establishes that the business day of that station ended at an earlier time, in which case the time of mailing shall be deemed to be the last minute of the business day of that station. If any such receipt for certified mail does not show the date, the offer shall not be considered.

§ 2.503-2 Step two.

(d) Will not be synopsisized (see Subpart J, Part 1 of this chapter) or publicly posted (see § 2.203-2), except that the names of firms which have submitted acceptable technical proposals in the first step of two-step formal advertising will be listed in the Commerce Business Daily for the benefit of prospective subcontractors in accordance with § 1.1003-6 (a)(2) of this chapter.

PART 3—PROCUREMENT BY NEGOTIATION

12. Paragraph (b) in § 3.201-2 is revised; § 3.210-3 is revised; and subparagraph (2) in § 3.303(a) is revised, as follows:

§ 3.201-2 Application.

(b) For the duration of the national emergency declared pursuant to Presidential Proclamation 2914, dated December 16, 1950, the Assistant Secretary of Defense (Installations and Logistics) has determined that only the following procurements may be made pursuant to the authority of 10 U.S.C. 2304(a)(1):

(1) Procurements made in keeping with (i) labor surplus set-aside programs, including, when no other negotiating authority is appropriate and the use of formal advertising is not feasible and practicable, the placement of contracts for the total or any part of the requirements set-aside which are not filled by awards made in accordance with the provisions of the Notice of Labor Surplus Area Set-Aside (see § 1.804-2(c) of this chapter), or (ii) disaster area programs; and

(2) Procurements made in keeping with the small business programs (i) after unilateral determinations for set-asides, or (ii) to place the total or any part of the requirements set-aside which are not filled by awards to small business concerns, when no other negotiating authority is appropriate and the use of formal advertising is not feasible and practicable (see § 1.706-7 of this chapter).

RULES AND REGULATIONS

§ 3.210-3 Limitation.

The authority of §§ 3.210 through 3.210-3 shall not be used when negotiation is authorized by any other authority set forth in §§ 3.201 through 3.217, except that this authority shall be used in preference to § 3.212. The authority illustrated in § 3.210-2 (c) and (d) shall not be used in cases where "Small Business Restricted Advertising" has been used. However, the authority may be used in the case of partial set-asides unless in the judgment of the contracting officer the failure to obtain sufficient responsive bids was caused by the existence of set-aside. The authority contained in § 3.210-2 (m) and (o) shall not be used in procurements in excess of \$10,000 unless its use is approved in advance at a level higher than the contracting officer. Every contract that is negotiated under the authority of §§ 3.210 through 3.210-3 shall be accompanied with a determination and findings justifying its use, signed by the contracting officer and prepared in accordance with the requirements of Subpart C of this part.

§ 3.303 Determinations and findings below the Secretarial level.

(a) * * *

(2) Determinations and findings with respect to authority to enter into contracts by negotiation required by §§ 3.202-3, 3.207-3, 3.208-3, 3.210-3, and 3.211-3; provided, that under § 3.211-3 the basic contract or any single modification thereto does not obligate the Government to pay more than \$100,000 (where it is known in advance that the scope of the contract will be expanded to include additional phases or where it is incrementally funded, the total estimated cost of all increments will be used as the basis for determining whether a determination and finding will be made at the Secretarial level or by the contracting officer);

13. Subparagraph (2) in § 3.405-5(c) is revised; subparagraph (5) in § 3.408 (d) is revised; and in § 3.501(b), subparagraphs (4) and (23) are revised and subparagraph (44) is added, as follows:

§ 3.405-5 Cost-plus-a-fixed-fee contract.

(c) Limitations. * * *

(2) 10 U.S.C. 2306(d) provides that in the case of a cost-plus-a-fixed-fee contract the fee shall not exceed ten percent (10 percent) of the estimated cost of the contract, exclusive of the fee, as determined by the Secretary concerned at the time of entering into such contract (except that a fee not in excess of fifteen percent (15 percent) of such estimated cost is authorized in any such contract for experimental, developmental, or research work and that a fee inclusive of the contractor's cost and not in excess of six percent (6 percent) of the estimated cost, exclusive of fees, as determined by the Secretary concerned at the time of entering into the contract, of the project to which such fee is applicable is authorized in contracts for architectural or engineering services relating to any public works or utility projects).

As to fee limitations on subcontracts, see § 3.807-10(d).

§ 3.408 Letter contract.

(d) Content. * * *

(5) A consent to subcontracts clause in accordance with § 3.903-1 and as many other definitive contract provisions as possible;

§ 3.501 Preparation of request for proposals or request for quotations.

(b) * * *

(4) Closing date and time.

(23) A provision for late proposals as set forth in § 3.804-2(d) and, in addition, the following notice shall be prominently set forth in the request for proposals (in the case of request for quotations, the provision in § 3.804-2(d) and the following notice will be appropriately modified).

CAUTION—LATE PROPOSALS. See the special provision entitled "Late Proposals" which provides that late proposals sent through the mails ordinarily will be considered ONLY IF TIMELY MAILED BY REGISTERED MAIL OR BY CERTIFIED MAIL FOR WHICH A POSTMARKED RECEIPT HAS BEEN OBTAINED AS SPECIFIED IN SUCH PROVISION.

(44) Such general contract provisions or conditions as are required by law or by this subchapter.

14. Sections 3.604-1(a), 3.610-2 (d) and (g), 3.804-2 (a) and (d), and 3.807-10(d) are revised to read as follows:
§ 3.604-1 Conditions for use.

Imprest funds shall be used in accomplishing small purchases when all of the following conditions are present.

(a) The transaction is not in excess of \$100 (\$250 under emergency conditions).

§ 3.610-2 Procurement and payment.

(d) The supplier shall be notified that where the total price will exceed the estimated monetary limitation, or if material or services cannot be furnished in exact accordance with the description and delivery schedule set forth, the contracting officer shall be notified and performance shall be withheld pending advice from the contracting officer.

(g) The following clause shall be included in each unpriced purchase order:

NOTICE TO SUPPLIER

This is a firm order if the total price is \$----- or less. Make delivery or perform in accordance with the delivery provisions of this order and submit invoice to the Contracting Officer of the purchase office named herein.

If total price of this order will exceed the above amount or if you cannot furnish material or services in exact accordance with the description and delivery schedules set forth herein, notify the undersigned Contracting Officer immediately, giving your quotation or proposed substitution or changes, and withhold performance pending reply. (Aug. 1963)

§ 3.804-2 Late proposals.

(a) Proposals which are received in the office designated in the requests for proposals after the time specified for their submission are "Late Proposals." Late proposals shall not be considered for award, except under the circumstances set forth in § 2.303 of this chapter relating to late bids and § 2.305 of this chapter relating to late modifications, or where only one proposal is received. (For the purpose of applying the late bid rules to late proposals, unless a specific time for receipt of proposals is stated in the request for proposals, the time for such receipt shall be deemed to be the time for close of business of the office designated for receipt of proposals on the date stated in the request for proposals.) Notwithstanding the provisions of § 1.109 of this chapter, exceptions may be authorized only by the Secretary concerned, and only where consideration of a late proposal is of extreme importance to the Government, as for example where it offers some important technical or scientific breakthrough. To determine the possible existence of such extreme importance, notwithstanding § 2.303-7 of this chapter, all late proposals shall be opened prior to award and if not considered for award shall be returned to the offeror.

(d) Written requests for proposals shall contain the following provisions:

LATE PROPOSALS (AUG. 1963)

(a) Proposals received at the office designated in the request for proposals after the close of business on the date set for receipt thereof (or after the time set for receipt if a particular time is specified) will not be considered unless:

(i) They are received before award is made; and either

(ii) They are sent by registered mail, or by certified mail for which an official dated post office stamp (postmark) on the original receipt for certified mail has been obtained, or by telegraph; and, it is determined by the Government that late receipt was due solely to delay in the mails, or delay by the telegraph company, for which the offeror was not responsible; or

(iii) If submitted by mail or telegram, it is determined that the late receipt was due solely to mishandling by the Government after receipt at the Government installation; Provided, That timely receipt at such installation is established upon examination of an appropriate date or time stamp (if any) of such installation, or of other documentary evidence of receipt at such installation (if readily available) within the control of such installation or of the post office serving it.

(b) Offerors using certified mail are cautioned to obtain a legibly postmarked, dated receipt for certified mail and retain it against the chance that the postmark thereon will be required as evidence that a late proposal was timely mailed. If the postmark on such receipt, or on the registered mail wrapper shows the hour of mailing as well as the date, the time of mailing shall be established accordingly; if it shows the date but not the hour, the time of mailing shall be deemed to be the last minute of the date shown, unless the offeror furnishes evidence from the post office of mailing which, (i) in the case of registered mail, establishes an earlier time; or (ii) in the case of certified mail where the receipt for certified mail identifies the post

office station of mailing, establishes that the business day of that station ended at an earlier time, in which case the time of mailing shall be deemed to be the last minute of the business day of that station. If any such receipt for certified mail does not show the date, the offer shall not be considered.

§ 3.807-10 Subcontracting considerations in cost analysis.

(d) In considering cost-plus-fee subcontracts while negotiating prime contracts where cost analysis is performed, the contracting officer shall make every effort to insure (but in consenting to cost-plus-fee subcontracts, the contracting officer shall insure) that fees under such subcontracts never exceed—

(1) Fifteen percent (15%) of the estimated cost, exclusive of fee, in the case of any subcontract for experimental, developmental, or research work; or

(2) Ten percent (10%) of the estimated cost, exclusive of fee, in the case of any other subcontract, except as provided in subparagraph (3) of this paragraph; or

(3) Six percent (6%) of the estimated cost of a public work or utility, exclusive of fees, in the case of a subcontract for architectural or engineering services for such work or utility project.

These limits should not be inserted in the prime contract because such action might tend to inflate fees customarily negotiated at lower rates.

15. Sections 3.808, 3.808-1, 3.808-2, 3.808-3, 3.808-4, and 3.808-5 are revised, and new §§ 3.808-6 and 3.808-7 are added.

§ 3.808 Profit, including fees under cost-reimbursement type contracts.

§ 3.808-1 Policy.

(a) *General.* It is the policy of the Department of Defense to utilize profit to stimulate efficient contract performance. Profit generally is the basic motive of business enterprise. The Government and defense contractors should be concerned with harnessing this motive to work for more effective and economical contract performance. Negotiation of very low profits, the use of historical averages, or the automatic application of a predetermined percentage to the total estimated cost of a product, does not provide the motivation to accomplish such performance. Furthermore, low average profit rates on defense contracts overall are detrimental to the public interest. Effective national defense in a free enterprise economy requires that the best industrial capabilities be attracted to defense contracts. These capabilities will be driven away from the defense market if defense contracts are characterized by low profit opportunities. Consequently, negotiations aimed merely at reducing costs by reducing profits, with no realization of the function of profit cannot be condoned. For each contract in which profit is negotiated as a separate element of the contract price, the aim of negotiation should be to employ the profit motive so as to impel effective contract performance by which overall contract costs are economically controlled. To this end, the profit ob-

jective must be fitted to the circumstances of the particular procurement, giving due weight to each of the performance, risk, and other factors set forth in §§ 3.808 through 3.808-7. This will result in a wider range of profits which, in many cases, will be significantly higher than previous norms.

(b) *Contracts priced on the basis of cost analysis.* When cost analysis is performed pursuant to § 3.807-2, profit considerations shall be in accordance with the objectives set forth below. As an inducement for broad reductions in defense costs, the Government should:

(1) Establish a profit objective for contract negotiations which will allow the contractor an opportunity to earn profits commensurate with the extent of cost risk he is willing to assume—the greater the risk assumption, the greater the profit objective established;

(2) Reward those contractors who have a very good record of past performance and conversely provide for lower profits to contractors whose performance has been mediocre or poor; and

(3) Reward contractors who provide their own facilities and financing or who have established their competence through prior development work undertaken at their own risk.

The weighted guidelines method set forth in § 3.808-2 for establishing profit objectives is designed to provide reasonably precise guidance in applying these principles. This method, properly applied, will tailor profits to the circumstances of each contract in such a way that long range cost reduction objectives will be fostered, and a wider spread of profits will be achieved.

(c) *Contracts without cost analysis.* On many contracts and subcontracts, good pricing does not require an examination into costs or profits. Where adequate price competition exists and in other situations where cost analysis is not required (see § 3.807), firm fixed-price contracts will be awarded to the lowest responsible offerors without regard to the amount of their profits. Under these circumstances, the profit which is anticipated, or in fact earned, should not be of concern to the Government. In such cases, if a low offeror earns a large profit, it should be considered the normal reward of efficiency in a competitive system and efforts should not be made to reduce such profits.

§ 3.808-2 Weighted guidelines method.

(a) *General.* The weighted guidelines method provides contracting officers with (1) a technique that will insure consideration of the relative value of the appropriate profit factors described in § 3.808-4 in the establishment of profit objectives and the conduct of profit negotiations; and (2) a basis for documentation of this objective, including an explanation of any significant departure from this objective in reaching a final agreement. The contracting officer's analysis of these profit factors is based on information usually available to him prior to negotiations. Such information is furnished in proposals,

audit data, performance reports, preaward surveys, and the like. The weighted guidelines method shall be used in all contracts where cost analysis is performed except as set forth in paragraph (b) of this section.

(b) *Exceptions.* (1) Under the following circumstances, other methods for establishing profit objectives may be used provided such methods accomplish the two features of the weighted guidelines method set forth in paragraph (a) of this section. These circumstances are:

(i) Architect engineering contracts;

(ii) Personal or professional service contracts;

(iii) Management contracts, e.g., for maintenance or operation of Government facilities;

(iv) Contracts with nonprofit organizations where fees are involved; and

(v) Termination settlements.

(2) Other exceptions may also be made in the negotiation of contracts presenting unusual pricing situations when specifically authorized by the head of a procuring activity. Such exceptions shall be justified in writing and authorized only in situations where the weighted guidelines method is determined to be unsuitable.

(c) *Statutory limitations.* In the event this or any other method would result in establishing a fee objective in violation of limitations established by statute or this subchapter, the maximum fee objective shall be the percentage allowable pursuant to such limitations.

§ 3.808-3 Profit objective.

(a) A profit objective is that part of the estimated contract price objective or value which, in the judgment of the contracting officer, is appropriate for the procurement being considered, covering the profit or fee element of the price objective and is to be used in commencing negotiations with a contractor. This objective should realistically reflect the total overall task to be performed and the requirements placed on the contractor. Prior to negotiation of contracts or modifications thereto, when cost analysis is undertaken, the negotiator shall develop a profit or fee objective.

(b) Contracting officers shall, when appropriate, request contractors to develop profit objectives using the weighted guidelines method to price their proposals accordingly and be prepared to negotiate, using this method. This information will provide a basis for negotiation of contract profit.

(c) Development of a profit objective should not begin until after a thorough (1) review of proposed contract work; (2) review of all available knowledge regarding the contractor, pursuant to Subpart I, Part 1 of this chapter, including performance, capability reports, audit data, preaward survey reports and financial statements, as appropriate; and (3) analysis of the contractor's cost estimate and comparison with the Government's estimate or projection of cost.

§ 3.808-4 Profit factors.

(a) The factors set forth below shall be considered in all cases in which profit is to be specifically negotiated. The

RULES AND REGULATIONS

weight ranges listed after each factor shall be used in all instances where the weighted guidelines method is used:

Profit factors	Weight ranges
Contractors' input to total performance—	
Direct materials:	
Purchased parts.....	1-4%
Subcontracted items.....	1-5%
Other materials.....	1-4%
Engineering labor.....	9-15%
Engineering overhead.....	6-9%
Manufacturing labor.....	5-9%
Manufacturing overhead.....	4-7%
General and administrative expenses.....	6-8%
Contractor's assumption of contract cost risk.....	0-7%
Type of contract.....	
Reasonableness of cost estimates.....	
Difficulty of contract task.....	
Record of contractor's performance Management.....	-2-+2
Cost efficiency.....	
Reliability of cost estimates.....	
Timely deliveries.....	
Quality of product.....	
Inventive and developmental contributions.....	
Small business and labor surplus area participation.....	
Selected factors.....	-2-+2
Source of resources.....	
Government or contractor.....	
Source of financial.....	
Material and technical.....	
Resources.....	
Special achievement, if any, required in contract.....	
Other.....	

(b) Under the weighted guidelines method, the contracting officer shall first measure the "Contractor's Input to Total Performance" by the assignment of a profit percentage within the designated weight ranges to each element of contract cost recognized by the contracting officer. Such costs are multiplied by the specific percentages, which have been selected in accordance with § 3.808-5(b), to arrive at specific dollar profits. The sum of the dollar profits for all of the cost elements of the Contractor's Input to Total Performance represents the profit objective at this point.

(c) The suggested categories under the Contractor's Input to Total Performance are similar to those on the Cost and Price Analysis (DD Form 633). Often, individual proposals will be in a different format; but, since these categories are broad and basic, they provide sufficient guidance to evaluate all other items of cost.

(d) Although certain classifications of acceptable cost, including travel, subsistence, facilities, test equipment, special tooling, federal manufacturers excise taxes, and royalty expenses, may have been historically excluded from the base upon which profit has been computed, they shall not be excluded when using the weighted guidelines method. If Contractor's Input to Total Performance includes costs for facilities purchased for the account of the Government, they shall be evaluated under the Source of Resources factor (see § 3.808-5(e)(1)).

(e) After the contracting officer has computed a total dollar profit for the Contractor's Input to Total Performance, he shall divide this amount by the total recognized costs to determine the com-

posite profit percentage for this factor. To this composite percentage, he shall then add the specific percentages assigned for cost risk, performance, and the other selected factors, to arrive at a total profit percentage. He shall then multiply the total recognized contract costs by this total profit percentage to determine the profit objective. A cardinal principle of the weighted guidelines method is that the specific percentages assigned for cost risk, performance, and other factors are applied to total recognized costs in establishing the profit objective.

§ 3.808-5 Assignment of values to specific factors.

(a) *General.* In making his judgment of the value of each factor, the contracting officer should be governed by the definition, description, and purpose of the factors together with considerations for evaluating them as set forth herein.

(b) *Contractor's input to total performance.* This factor is a measure of how much the contractor himself is expected to contribute to the overall effort necessary to meet the contract performance requirements in an efficient manner. This factor which is apart from the contractor's responsibility for contract performance, takes into account what resources are necessary and what the contractor himself must do to accomplish a conversion of ideas and materials into the final product called for in the contract. This is a recognition that within a given total performance output, or within a given sales dollar figure, necessary efforts on the part of individual contractors can vary widely in both value and quantity, and that the profit objective should reflect the extent and nature of the contractor's contribution to total performance. The evaluation of this factor requires an analysis of the cost content of the proposed contract as follows.

(1) *Direct materials (purchased parts, subcontracted items, and other material).* Analysis of these cost items shall include an evaluation of the managerial and technical effort necessary to obtain the required purchased parts, subcontracted items, and other materials, including special tooling. This evaluation shall include consideration of the number of orders and suppliers, and whether established sources are available or new sources must be developed. The contracting officer shall also determine whether the contractor will, for example, obtain the material and tooling by routine orders for readily available supplies (particularly those of substantial value in relation to the total contract cost), or by detailed subcontracts for which the prime contractor will be required to develop complex specifications involving creative design or close tolerance manufacturing requirements. Consideration should be given to the managerial and technical efforts necessary for the prime contractor to administer subcontracts. These determinations shall be made for purchases of raw materials or basic commodities, purchases of processed material including all types of components of standard or near-standard character-

istics, and purchases of pieces, assemblies, subassemblies, special tooling and other products special to the end-item. In the application of this criterion it should be recognized that the contribution of the prime contractor to his purchasing program might be substantial. This might be applicable in the management of subcontracting programs involving many sources, involving new complex components and instrumentation, incomplete specifications, and close surveillance by the prime contractor's representatives. The normal low weight for direct materials is 2 percent. A weighting of less than 2 percent would be appropriate only in unusual circumstances when there is a minimal contribution by the contractor.

(2) *Engineering labor and manufacturing labor.* Analysis of the engineering labor and manufacturing labor items of the cost content of the contract shall include evaluation of the comparative quality and level of the engineering talents, manufacturing skills and experience to be employed. In evaluating engineering labor for the purpose of assigning profit dollars, consideration shall be given to the amount of notable scientific talent or unusual or scarce engineering talent needed in contrast to journeyman engineering effort or supporting personnel. The diversity, or lack thereof, of scientific and engineering specialties required for contract performance and the corresponding need for engineering supervision and coordination should be evaluated. Similarly, the variety of manufacturing labor skills required and the contractor's manpower resources for meeting these requirements shall be considered.

(3) *Engineering overhead, manufacturing overhead, and general and administrative expenses.* Analysis of these overhead items of cost includes the evaluation of the make up of these expenses and how much they contribute to contract performance. This analysis shall include a determination of the amount of labor within these overhead pools and how this labor would be treated if it were considered as direct labor under the contract. The allocable labor elements shall be given the same profit consideration that they would receive if they were treated as direct labor. The other elements of these overhead pools shall be evaluated to determine whether they are routine expenses such as utilities, depreciation, and maintenance, and hence given lesser profit consideration, or whether they are significant contributing elements. The composite of the individual determinations in relation to the elements of the overhead pools will be the profit consideration given the pools as a whole. The procedure for assigning relative values to these overhead expenses differs from the method used in assigning values to direct labor. The upper and lower limits assignable to the direct labor are absolute. In the case of overhead expenses, individual expenses may be assigned values outside the range as long as the composite ratio is within the range.

(c) *Contractor's assumption of contract cost risk.* (1) This factor reflects the policy of the Department of Defense

to shift the risk of contract costs to the fullest extent practicable to contractors and to compensate them for the assumption of this risk. Evaluation of this risk requires a determination of (i) the degree of cost responsibility the contractor assumes, (ii) the reliability of the cost estimates in relation to the task assumed, and (iii) the chances of the contractor's success or failure. This factor is specifically limited to the risk of contract costs. Thus, such risks on the part of the contractor as reputation, losing a commercial market, risk of losing potential profits in other fields, or any risk on the part of the purchasing activity, such as the risk of not acquiring an effective weapon, are not within the scope of this factor.

(2) The first and basic determination of the degree of cost responsibility assumed by the contractor is related to the sharing of total risk of contract cost by the Government and the contractor through the selection of contract type. The extremes are a cost-plus-fixed-fee contract requiring only that the contractor use his best efforts to perform a task, and a firm fixed-price contract for a complex item. Such cost-plus-fixed-fee contract would reflect a minimum assumption of cost responsibility, whereas such firm fixed-price contract would reflect a complete assumption of cost responsibility. Therefore, in the first step of determining what value is to be given for the contractor's assumption of contract cost risk, a zero rating shall be given to a proposed cost-plus-fixed-fee best efforts contract, and a 7 percent rating shall be given to a closely priced firm fixed-price contract for a new, complex item.

(3) The second determination is that of the reliability of the cost estimates. Sound price negotiation requires well-defined contract objectives and reliable cost estimates. Prior production experience assists the contractor in preparing reliable cost estimates on new procurements for similar equipment and does not in any way reduce his cost responsibility in a firm fixed-price contract. An excessive cost estimate reduces the possibility that the cost of performance will exceed the contract price, thereby reducing the contractor's assumption of contract cost risk.

(4) The third determination is that of the difficulty of the contractor's task. The contractor's task can be difficult or easy, regardless of the type of contract.

(5) Contractors are likely to assume greater cost risks only if contracting officers objectively analyze the risk incident to proposed contracts and are willing to compensate contractors for it. Generally, a cost-plus-fixed-fee contract would not justify a reward for risk in excess of 1 percent nor would a firm fixed-price contract justify a reward of less than 5 percent. Where proper contract type selection has been made the reward for risk by contract type would usually fall into the following percentage ranges:

Type of contract	Percentage ranges
Cost-plus-fixed-fee	0-1
Cost-plus-incentive-fee including cost incentive only	1-2

No. 229-3

Type of contract	Percentage ranges
Cost-plus-incentive-fee including cost performance and delivery incentives	1½-3
Fixed-price-incentive including cost incentive only	2-4
Fixed-price-incentive including cost, performance and delivery incentives	3-5
Prospective price redetermination	4-5
Firm fixed-price	5-7

These ranges may not be appropriate for all procurement circumstances. For instance, a fixed-price-incentive contract which is closely priced with a low ceiling price and a high incentive share may be tantamount to a firm-fixed contract, while a fixed-price-incentive contract with a high ceiling price and low cost incentive formula could be considered to contain cost-plus-incentive-fee contract features. Similarly, if a cost-plus-incentive-fee contract includes a ceiling or an unlimited downward (negative) fee adjustment on cost control, it could be comparable to a fixed-price-incentive contract.

(d) Record of contract performance.

(1) Contractors who have an excellent record of previous performance should receive more favorable profit consideration than poor performers, in order to provide an incentive for improved performance and to decrease the cost risk to the Government. The following factors are to be considered in evaluating a contractor's performance record.

(2) Management—stability and competence of management personnel, their willingness and ability to adjust company resources to meet peculiarly difficult and changing defense requirements are criteria for consideration. The degree of cooperation by the contractor, both business and technical, with the objectives of the Government should be considered.

(3) Cost efficiency—low cost performance reflecting economic use of facilities and manpower, sound purchasing methods and subcontracting procedures, and effective inventory control are criteria for consideration. Improvement in production efficiency through investment in plant modernization, past production efficiencies, or lack thereof, effectiveness of the contractor's make-or-buy program, purchasing and subcontracting system and inventory control shall be evaluated.

(4) Reliability of cost estimates—accuracy and reliability of previous cost estimates shall be considered.

(5) Timely deliveries—the contractor's delivery record, considering excusable delays and the contractor's efforts to overcome delays, shall be analyzed.

(6) Quality of product—experience with the contractor's product reliability, including the rate of rejection of his product and his acceptance of responsibility for continuing support shall be considered.

(7) Inventive and developmental contributions—extent and nature of contractor-initiated and financed research, development, design work, product engineering, quality control, value engineering, and manufacturing processes and techniques shall be analyzed.

(8) Small business and labor surplus participation—the contractor's policies

and procedures which energetically support Government, small business and labor surplus-area programs should be given favorable consideration. Any unusual efforts which the contractor displays in subcontracting with these concerns, particularly for development type work likely to result in later production opportunities, and the overall effectiveness of the contractor in subcontracting with and furnishing assistance to such concerns shall be considered.

(e) Selected factors. The following additional factors which may enter into particular procurement circumstances shall, as a group, be assigned a weight.

(1) Source of resources (Government or private). Application of this factor calls for an analysis of the contractor's dependence on Government financial assistance; material assistance in the form of special test equipment, facilities, and special tooling; and special technical assistance in the form of designs, processes, and techniques previously developed at Government expense. Contractor reliance upon Government resources shall be discouraged by providing for less favorable profit consideration. Commercial facilities to be rented by the contractor will be evaluated as contractor furnished. Customary progress payments and guaranteed loans with normal guarantees (90 percent or less) shall not be weighed in this evaluation. However, other forms of financial assistance such as extraordinary progress payments, guaranteed loans with abnormal guarantees, or advance payments shall be considered as a minus factor. Similarly, the reliance on any other type of Government assistance, including facilities, shall be evaluated as a minus from zero.

(2) Special achievement, if any, required in the contract. This factor indicates the need for extra profit consideration when outstanding performance is required. Such achievement may be in the form of a special technical requirement, such as production of some remarkable first, or achievements involving non-technical objectives, such as an extraordinarily fast delivery schedule.

(3) Other. Particular procurement situations may give rise to the desirability of using a profit factor other than those in subparagraphs (1) and (2) of this paragraph. Such factor shall be identified; and the reason for its use shall be documented in accordance with § 3.811.

§ 3.808-6 Special profit consideration.

Contractors who develop military items without Government assistance are entitled to special profit consideration on those items. This consideration shall be in addition to the profit objective arrived at through the weighted guideline method. One to four percent of recognized cost is established as the normal range of value for this profit factor. The criteria for selection of the specific percentage shall be the importance of the development in furthering defense purposes, the demonstrable initiative in determining the need and application of the development, the extent of the contractor's cost risk, and whether the develop-

RULES AND REGULATIONS

ment capital was recovered directly or indirectly from Government sources.

§ 3.808-7 Examples.

A number of examples of application of the weighted guidelines method of determining a profit objective are set forth below. These examples are drawn from hypothetical situations only and shall in no event be considered as requiring the use of identical or similar specific percentage values merely because of some believed similarity between an actual procurement action and the hypothetical facts of any of the examples.

EXAMPLE NUMBER 1—FFP CONTRACT FOR CONTRACTOR-DEVELOPED MILITARY ITEM

Factors	Estimated costs	Assigned weight	Profit
Contractor's input to total performance:		Percent	
Direct materials—			
Purchased parts.....	\$750,000	3	\$22,500
Subcontracted items.....	750,000	4	30,000
Other materials.....	500,000	3	15,000
Engineering labor.....	50,000	11.3	5,650
Engineering overhead.....	25,000	7.6	1,900
Manufacturing labor.....	1,100,000	6.4	70,400
Manufacturing overhead.....	1,325,000	6.4	84,800
General and administrative expenses.....	500,000	7.55	37,750
Totals.....	5,000,000		268,000
Composite weight (profit + estimated costs).....		5.36	
Risk.....		7.00	
Performance.....		2.00	
Selected factors.....		2.00	
Totals using weighted guidelines method.....		16.36	\$18,000
\$5,000,000.....		3.00	150,000
Special consideration.....			
Profit objective.....		19.36	968,000

1. *Contract type.* The contractor has proposed a FFP contract. The item to be procured is a sound measuring device developed by the contractor, without government assistance.

2. *Contractor's input to total performance—Direct materials.* Analysis revealed that the purchased parts were priced on the basis of catalog or competitive prices and were purchased under many small contracts. The subcontract items are predominantly newly developed and will be mostly purchased through negotiation under a small number of separate orders. Other materials represent approximately 90 percent of raw materials and 10 percent of standard nuts, bolts and similar hardware. These materials will all be purchased on the basis of catalog or competitive prices. The contracting officer, after evaluating the technical and managerial effort received for the acquisition of these items assigned a 3 percent weight for purchased parts and other materials and a 4 percent weight for subcontract items.

b. *Direct labor.* The contracting officer determined that approximately 10 percent of the engineering labor cost represented the input of supervisory engineering to which he assigned a profit value of 14 percent and the remaining 90 percent represented support engineering labor to which he assigned a value of 11 percent, or an average weight of 11.3 percent. He also determined that 5 percent of the manufacturing labor to be applied to the proposal would be of a supervisory nature, justifying a profit weight of 9 percent; 70 percent would be provided by skilled assembly workers, to which he assigned a value of 7 percent and the remain-

ing input would be provided by unskilled labor on which he placed a value of 5 percent. This resulted in an average of 6.4 percent.

c. *Overhead expenses.* Contracting officer grouped the overhead expenses into the fol-

lowing classifications and assigned relative profit rates in accordance with his reasoning as to how the effort represented by these expenses contributed to effective contract performance.

	ENG. O/H		MFG. O/H		G & A	
	Total expenses	Weight assigned	Total expenses	Weight assigned	Total expenses	Weight assigned
Salaries and fringe benefits:	Percent	Percent	Percent	Percent	Percent	Percent
Supervisory.....	5	15	10	9	15	15
Skilled.....	15	12	20	7	15	10
Unskilled and support.....	15	9	5	5	10	7
Space occupancy expenses.....	15	5	20	5	5	7
Depreciation.....	25	8	30	8	20	7
Purchased professional services.....	10	5			15	5
Supplies.....	5	3	10	3	10	3
Miscellaneous (minimal contribution).....	10	3	5	3	10	3
Total.....	100		100		100	
Total estimated expenses in pool.....		\$1,000,000		\$5,000,000		\$1,000,000
Total allocable to proposed contract.....		25,000		1,325,000		500,000
Profit.....		1,900		84,800		37,750

3. *Risk.* In selecting 7 percent for this factor, the contracting officer made a thorough analysis of the contractor's proposed fixed prices. This item had been developed in the contractor's laboratory and had never been built in production quantities. The contractor's proposal of estimated costs included amortization of tooling over total future military and civilian production. The contractor's estimates presumed the ability to incorporate the laboratory development techniques into his production facility with little difficulty. In light of his fixed-price proposal, the closeness of his cost estimates and the inherent difficulty involved with the first production run, the maximum assumption of contract cost risk was felt to be present.

4. *Performance.* This contractor has repeatedly demonstrated his technical competence and cost effectiveness. Although his sales are predominantly commercial, he has cooperated with Department of Defense policies and has maintained an excellent record of on-time delivery of quality products.

5. *Selected factors.* This contractor requires no Government facilities or financing. This contractor is primarily a commercial producer of hearing aid devices. The particular product involved in this contract has extensive commercial possibilities in this field. Since it is a significant advancement, the contractor has desired to obtain a competitive edge by being the first to introduce it into the commercial market. Because of its significant military uses, the Government has requested that the total initial production be for military use. The contractor has complied and is sacrificing some of his commercial potential to meet this military requirement. The contracting officer has therefore assigned a 2 percent weight for this special request.

6. *Special consideration.* The mix of this contractor's business is approximately 70 percent commercial and 30 percent military. The contractor maintains his own basic research group. This group is primarily devoted towards developing commercial products, but maintains a knowledge of defense requirements in its area of operation. The group recognized that the development of a more sophisticated sound measuring device would have significant military applications as well as being useful in the commercial hearing aid business. In the course of their development, these military applications were kept in mind and the specific product developed could be used in the military application without significant additional engineering research efforts. The costs of this basic research group are shared to some extent by the Government in the pricing of military business. The contract-

ing officer has therefore assigned a weight of 3 percent to this factor.

EXAMPLE NUMBER 2—FPI TYPE PRODUCTION CONTRACT

Factors	Estimated costs	Assigned weight	Profit
Contractor's input to total performance:		Percent	
Direct materials—			
Raw materials.....	\$3,000,000	2.00	\$60,000
Purchased parts.....	5,500,000	3.00	165,000
Subcontracted items.....	28,000,000	3.64	1,020,000
Engineering labor.....	1,500,000	11.3	169,000
Engineering overhead.....	1,000,000	7.88	78,800
Manufacturing labor.....	9,000,000	6.2	562,000
Manufacturing overhead.....	12,000,000	6.93	831,600
General and administrative expenses.....	4,000,000	7.35	294,000
Totals.....	64,000,000		3,181,300
Composite weight (profit + estimated costs).....		4.97	
Risk.....		4.80	
Performance.....		1.00	
Selected factors.....		-1.20	
Profit objective.....		9.57	6,124,800

1. *Contract type.* The proposed contract calls for the delivery of 200 units of a complex missile system, utilizing a fixed price incentive type contract with a firm target price, and a ceiling price 5 percent above. Contractors proposed a 50-50 incentive formula on cost, plus performance and delivery incentives.

2. *Profit objective.* In establishing his profit objective, the contracting officer determined that the relative weights and profit dollars should be assigned to the specific factors on the following basis:

a. *Contractor's input to total performance.*
(1) *Raw Materials—\$3,000,000.* Analysis revealed that this amount represented approximately 100 orders for standard sizes of aluminum, steel, and other readily available materials which would be purchased on the basis of competitive or catalog prices. The contracting officer reasoned that the procurement of these materials represented a below-normal effort, justifying a profit weight below the median for this factor, and assigned a profit weight of 2 percent.

(2) *Purchased Parts—\$5,000,000.* Procurement of these parts will involve approximately 3,000 purchase orders, 90 percent of which will be purchased on the basis of competitive or catalog prices, and the remaining 10 percent will be negotiated on a cost analysis basis. The parts were pur-

chased to existing industry and military standards and the contractor's contribution was primarily related to selection of vendors and purchasing administration. The contracting officer assigned a weight of 3 percent.

(3) Subcontracted Items—\$28,000,000. The contracting officer's analysis indicated that the subcontracting program involved subcontracts of varying complexity to which he assigned the following profit weights:

Description	Estimated costs	Number	Assigned weight	Profit
Subcontracts involving new designs and new processes requiring extensive high level engineering supervision by the prime contractor.....	\$2,000,000	10	Percent 5	\$100,000
Many subcontracts, unstable design and specifications, and a high level of negotiation and prime contractor surveillance.....	16,000,000	3,000	4	640,000
Normal subcontracting program, mostly stable design and specifications.....	8,000,000	500	3	240,000
Continuation purchases, little changes in design.....	2,000,000	20	2	40,000
Totals.....	28,000,000	3,530	3.64	1,020,000
Composite weight.....				

(4) Engineering Labor—\$1,500,000.

Manufacturing Labor—\$9,000,000. In his analysis of engineering and manufacturing labor, the contracting officer assigned the following relative weights to the various categories of competence and responsibility among the engineering and manufacturing labor classifications:

Classification	Estimated costs	Assigned weight	Profit
Engineering labor:			
High level scientific or supervisory.....	\$20,000	15	\$3,000
Senior engineer.....	100,000	14	14,000
Engineer.....	380,000	13	42,900
Junior engineer.....	400,000	12	48,000
Draftsman.....	300,000	11	33,000
Technician.....	200,000	10	20,000
Support.....	100,000	9	9,000
Total.....	1,500,000		169,900
Composite weight.....		11.3	
Manufacturing labor:			
Supervisory.....	100,000	9	9,000
Skilled.....	3,900,000	7	273,000
Semiskilled.....	3,000,000	6	180,000
Unskilled.....	2,000,000	5	100,000
Total.....	9,000,000		562,000
Composite weights.....		6.2	

(5) Engineering Overhead—\$1,000,000.

Manufacturing Overhead—\$12,000,000. General and Administrative Expenses—\$4,000,000. In his analysis of these overhead expenses, the contracting officer grouped the various expenses in the overhead pools into the following categories and assigned relative weights on the same general basis used in the assignment of profit values to direct costs:

Category	Total estimated overhead expenses	Assigned weight	Profit
Engineering overhead:			
Salaries and fringe benefits:			
Management.....	\$400,000	15	\$60,000
Designers.....	800,000	10	80,000
Support and clerical.....	400,000	9	36,000
Outside purchases:			
Professional services.....	300,000	5	15,000
Rent and utilities.....	200,000	3	6,000
Supplies.....	50,000	2	1,000
Depreciation.....	1,300,000	7	91,000
Travel and subsistence.....	500,000	5	25,000
Taxes.....	50,000	2	1,000
Total.....	4,000,000		315,000
Composite weights.....		7.88	
Estimated engineering overhead expenses allocable to proposed contract.....			1,000,000
Profit value at 7.88 percent.....			78,800

Category	Total estimated overhead expenses	Assigned weight	Profit
Manufacturing overhead:			
Salaries and fringe benefits:			
Management.....	\$8,000,000	9	\$720,000
Support.....	4,500,000	7	315,000
Unskilled.....	2,000,000	5	100,000
Outside purchases:			
Professional services.....	1,000,000	5	50,000
Rent and utilities.....	1,000,000	3	30,000
Supplies.....	500,000	2	10,000
Depreciation.....	8,000,000	7	560,000
Travel and subsistence.....	1,500,000	5	75,000
Taxes.....	500,000	2	10,000
Total.....	27,000,000		1,870,000
Composite weights.....		6.93	
Estimated manufacturing overhead expenses allocable to proposed contract.....			12,000,000
Profit value at 6.93 percent.....			831,600
General and administrative expenses:			
Salaries and fringe benefits:			
Management.....	3,100,000	15	465,000
Support.....	2,200,000	10	220,000
Unskilled.....	200,000	5	10,000
Outside purchases:			
Professional services.....	600,000	5	30,000
Rent and utilities.....	100,000	3	3,000
Supplies.....	700,000	2	14,000
Depreciation.....	200,000	7	14,000
Travel and subsistence.....	400,000	5	20,000
Taxes.....	500,000	2	10,000
Total.....	8,000,000		588,000
Composite weights.....		7.35	
Estimated general and administrative expenses allocable to proposed contract.....			4,000,000
Profit value at 7.35 percent.....			294,000

b. Risk. In determining the weight to be assigned for assumption of risk, the contracting officer determined that a range of 3 to 5 percent would be appropriate for a fixed price incentive contract, containing cost, performance, and delivery incentives. The proposed contract called for first production following a pilot run. The price quoted appeared to be reasonably realistic. The contracting officer determined that a profit objective of 4.8 percent for risk would be appropriate in view of the complexity of the item, the realistic cost estimate, and the close ceiling price.

c. Performance. Contractor's management has demonstrated its willingness and

ability to adjust company resources to meet defense requirements. The contractor has an effective small business subcontracting program. The contractor has just completed a successful development program of this item on time but experienced a cost overrun of 12 percent. The contracting officer has rated the record of contractor's performance at 1 percent.

d. Selected factors. (1) Source of resources: Approximately 75 percent of the facilities to be used in the performance of the contract are owned by the Government. The contracting officer has therefore assigned a minus 1.5 percent weight to this factor.

(2) Special achievement required in the contract: The contractor has agreed to have available support spares for these items until complete squadrons are operational in the field. A reserve of such spares above production requirements will be maintained at contractor's expense. This delay in procurement of support items will result in cost savings to the Government and the contracting officer has determined a 0.3 percent weighting should be given this factor.

(3) The composite weight assigned to selected factors is minus 1.2 percent.

EXAMPLE NUMBER 3—FPI CONTRACT FOR MISSILE HARDWARE

Factors	Estimated costs	Assigned weight	Profit
Contractor's input to total performance:			
Direct materials:			
Purchased parts.....	\$4,000,000	3	\$120,000
Other materials.....	1,000,000	2.0	20,000
Subcontracted items.....	50,000,000	1.92	960,000
Engineering labor.....	300,000	11.50	34,500
Engineering overhead.....	200,000	8.85	17,700
Manufacturing labor.....	1,000,000	5.6	56,000
Manufacturing overhead.....	1,500,000	5.62	84,300
General and administrative expenses.....	6,000,000	6.96	417,600
Totals.....	64,000,000		1,710,100
Composite weight (profit+estimated costs).....		2.67	
Risk.....		2.5	
Performance.....		2.00	
Selected factors.....		-1.5	
Profit objective.....		6.67	4,268,000

1. Contract type. The proposed contract is of the fixed-price incentive type for 100 missiles and 300 sets of launching equipment. This will be the third production run of a continuing missile production program. The prime contractor is responsible for over-all system compatibility and operation. The missile (less guidance section) and the launching equipment will be subcontracted to a single subcontractor under a fixed-price incentive subcontract. Both the prime and major subcontract contain both cost and delivery incentives.

2. Profit objective. In establishing his profit objective, the contracting officer determined that the weights and profit dollars should be assigned to the various factors in accordance with the following considerations:

a. Contractor's input to total performance—(1) Direct materials. The contracting officer, after analysis of estimated direct material costs, classified these materials into the following categories and assigned relative weights as indicated:

RULES AND REGULATIONS

Category	Estimated costs	As-igned weight	Profit
		<i>Percent</i>	
Purchased parts: Many orders for readily available items	\$4,000,000	3	\$120,000
Other materials: Basic raw materials	1,000,000	2	20,000
Subcontracted items: Subcontracts— Complex subs requiring close technical supervision by prime	4,000,000	5	200,000
Components and subassemblies manufactured to prime contractor's design and specifications under competitive priced subs. Many subcontracts involved	10,000,000	4	400,000
Subcontract with X corporation for missile (less guidance system) and ground support equipment manufactured by 2d tier sub. Little supervision of subs by prime	36,000,000	1	360,000
Total subcontracted	50,000,000		960,000
Composite weight		1.92	

(2) *Direct labor.* The contracting officer classified engineering and manufacturing labor into the following categories to which he assigned the indicated profit weights and dollars.

Category	Estimated costs	As-igned weight	Profit
		<i>Percent</i>	
Engineering labor: Top supervisory	\$25,000	15	\$3,750
Senior engineer	200,000	12	24,000
Support	75,000	9	6,750
Totals	300,000		34,500
Composite weight		11.50	
Manufacturing labor: Supervisory	50,000	9	4,500
Skilled	200,000	7	14,000
Unskilled	750,000	5	37,500
Totals	1,000,000		56,000
Composite weight		5.6	

(3) *Overhead Expenses.* After his analysis of the total engineering and manufacturing overhead and administrative expense pools, the contracting officer grouped the various expenses in these pools into the following categories and assigned relative weights on the same general basis used in the assignment of profit values to direct costs:

Category	Total estimated overhead expenses	As-igned weight	Profit
		<i>Percent</i>	
Engineering overhead: Salaries and fringe benefits— Management	\$300,000	15	\$45,000
Designers	400,000	12	48,000
Support and clerical	400,000	9	36,000
Outside purchases— Professional services	200,000	5	10,000
Rent and Utilities	300,000	5	15,000
Supplies	50,000	3	1,500
Depreciation	200,000	7	14,000
Travel and subsistence	100,000	5	5,000

Category	Total estimated overhead expenses	As-igned weight	Profit
		<i>Percent</i>	
Engineering overhead— Continued Taxes	\$50,000	5	\$2,500
Totals	2,000,000		177,000
Composite weight		8.85	
Estimated engineering overhead expenses allocable to proposed contract			200,000
Profit value at 8.85 percent			17,700
Manufacturing overhead: Salaries and fringe benefits— Management	500,000	9	45,000
Support	1,000,000	7	70,000
Unskilled	1,000,000	5	50,000
Outside purchases— Professional services	225,000	5	11,250
Rent and utilities	300,000	3	9,000
Supplies	175,000	2	3,500
Depreciation	1,100,000	5	55,000
Travel and subsistence	150,000	5	7,500
Taxes	50,000	3	1,500
Totals	4,500,000		252,750
Composite weight		5.62	
Estimated manufacturing overhead expenses allocable to proposed contract			1,500,000
Profit value at 5.62 percent			84,300
General and administrative expenses: Salaries and fringe benefits— Management	1,000,000	15	150,000
Support	3,000,000	9	270,000
Unskilled	1,000,000	6	60,000
Outside purchases— Professional services	1,000,000	5	50,000
Rent and utilities	2,000,000	4	80,000
Supplies	500,000	3	15,000
Depreciation	2,000,000	7	140,000
Travel and subsistence	1,000,000	5	50,000
Taxes	500,000	4	20,000
Totals	12,000,000		835,000
Composite weight		6.96	
Estimated general and administrative expenses allocable to proposed contract			6,000,000
Profit value at 6.96 percent			417,000

b. *Risk.* The contractor has proposed a fixed-price incentive contract with cost and delivery incentives. The incentive reward (or penalty) is divided 80-20 between cost and delivery. The profit sharing ratio is 70-30. A ceiling of 120 percent is proposed. The contracting officer reasoned that the contractor's cost risk only justified a reward of 2.5 percent since his cost risk was substantially reduced by the high ceiling price and the fact that the incentive reward or penalty would be passed along to the major subcontractor.

c. *Performance.* The contracting officer reasoned that the past performance of this contractor entitled him to the maximum weight of 2 percent for past performance. The contractor's record in compressing a large research, development, and production program and fielding a complex missile system within a short period of time was considered an outstanding achievement. Furthermore, the contractor had consistently cooperated in the small business and labor surplus policies of the Department of Defense. He operated a research and development laboratory, which resulted in genuine

advances in the state-of-the-art in areas of benefit to the Department of Defense.

d. *Selected factors.* The contracting officer determined that the only one of the selected factors applicable to the proposed contract was related to the source of resources. The contractor has applied for both prime and subcontract progress payments. In addition, an estimated 30 percent of total facilities for performance of proposed contract will be furnished by the Government. The contracting officer assigned a minus profit weight of 0.5 percent in view of these considerations.

EXAMPLE NUMBER 4—CPFF BEST EFFORTS TYPE CONTRACT FOR BASIC RESEARCH

Factors	Estimated costs	As-igned weight	Profit
Contractor's input to total performance:		<i>Percent</i>	
Direct materials	\$5,000	3.0	\$150
Engineering labor	27,000	12.3	3,320
Engineering overhead	25,000	7.5	1,875
Consultant fees	3,000	5.0	150
Travel and subsistence	1,000	6.0	60
General and administrative expenses	5,000	7.0	350
Totals	66,000		5,905
Composite weight (profit + estimated costs)		8.95	
Risk		0	
Performance		2	
Selected factors		0	
Profit objective	66,000	10.95	7,227

1. *Contract type.* This contract calls for one year's effort utilizing the services of one principal investigator and such other technical and support engineering personnel as are required on a basic research project. The results of this contract will be four quarterly and one annual report, describing the results of the study.

2. *Profit objective.* In establishing his profit objective, the contracting officer determined that the following weights with the resulting dollars should be assigned to the various factors.

a. *Direct materials.* He decided that within the range of 2 to 4 percent that the 2 percent factor should be assigned to a limited number of purchases or large dollar value of catalog items; that a 2 percent factor should be assigned to the purchase of a greater number of units where some instruction had to be given to the vendor as to type of item to be furnished. The 4 percent factor would only be applicable to the procurement of many items involving detailed instructions to the vendor, involving a relative wide variety of items. He chose the 3 percent factor because the number of items and the dollars involved is not great and the items involved are not off-the-shelf and require some direction to the vendor.

b. *Engineering labor.* The weight to be given to this factor was determined as follows:

Labor category	Estimated costs	As-igned weight	Profit
		<i>Percent</i>	
Senior engineer	\$15,000	14	\$2,100
Support engineering	7,000	11	770
Technical	5,000	9	450
Totals	27,000		3,320
Composite weight		12.3	

In making his determination on the propriety of these factors, the contracting officer reasoned that while this project required a high level of scientific ability, that ability would be provided by the consultant, and that the senior engineer to be used was a step below the level of first-class scientific talent. The weights assigned to support engineering reflect the proposed use of junior engineers. Technical personnel costs are weighted in accordance with his estimate of the relative contribution the personnel concerned will make to the project.

c. *Engineering overhead.* The amount of \$25,000 represents approximately 5 percent of the contractor's total pool of engineering overhead expenses for the period under consideration. The contracting officer decided that a detailed analysis of overhead to determine the extent of contribution to contract effort would not be appropriate in these circumstances. On the assumption that overhead normally contributes to contract performance in the same degree as the related direct labor, he chose the mid-point of the overhead range.

d. *Consulting fees.* This item of cost is similar to and classified the same as a sub-contracted item. In assigning profit value to this cost, the contracting officer used a weight of 5 percent. The consultant to be used will be responsible for the direction of the research effort and is a nationally respected expert in the particular research field.

e. *Travel and subsistence.* The value of 6 percent is assigned to these costs. This value reflects the opinion of the contracting officer that these costs represent a small contribution to contract effort. This item of cost which is generally classified as an overhead item is herein considered a direct cost; but, for purposes of profit evaluation, is considered the same as a general and administrative expense.

f. *General and administrative expenses.* The G&A expenses allocated to this contract represent approximately 1 percent of the total G&A pool. The contractor decided that an analysis of this pool to determine its contribution to contract effort would not be appropriate. He chose the mid-point of the 6-8 percent range suggested for general and administrative expenses on the basis that the contribution to contract effort represented by general and administrative expenses is comparable to the contribution represented by engineering overhead expenses.

3. *Contract cost risk.* The proposed contract is of the CPFF best effort type. A value of zero for this factor is considered appropriate.

4. *Performance.* The proposed contract is a continuation of similar studies conducted under prior contracts. Results of the prior contracts have been rated as excellent. Cost of the program in relation to achievements is satisfactory. The contracting officer determined that a +2 weight for this factor is appropriate.

5. *Selected factors.* No Government facilities or extraordinary financial assistance have been provided. No special achievement is called for. The contracting officer determined that a weight of zero is appropriate for this factor.

16. Sections 3.811, 3.901(a) and the introductory portion of § 3.903-1(a) are revised to read as follows:

§ 3.811 Record of price negotiation.

(a) At the conclusion of each negotiation of an initial or a revised price, the contracting officer shall promptly prepare or cause to be prepared a memorandum, setting forth the principal elements of the price negotiation, for inclusion in the contract file and for the use of any reviewing authorities. The memoran-

dum shall be in sufficient detail to reflect the most significant considerations controlling the establishment of the initial or revised price.

(b) As part of the requirement in paragraph (a) of this section, determination of the profit or fee objective, in accordance with § 3.808, shall be fully documented. Since the profit objective is the contracting officer's pre-negotiation evaluation of the total estimated profit under the proposed contract, the amounts set forth for each category of cost will probably change in the course of negotiation. Furthermore, the negotiated profit will probably vary from the profit objective, and from a detailed application of the weighted guidelines method to each element of the contractor's input to total performance as anticipated prior to negotiation. Since the profit objective is viewed as a whole rather than as its component parts, insignificant variations from the pre-negotiation profit objective, as a result of changes of the contractor's input to total performance need not be documented in detail. Conversely, significant deviations from the profit objective necessary to reach a final agreement on profit or fee shall be explained. The profit earned as a result of contract performance will generally vary from that anticipated at the time of the negotiation.

(c) Where the weighted guidelines method is not used because of unusual pricing situations (see § 3.808-2(b)(2)), the contract file shall be documented to support the exceptions.

§ 3.901 General.

(a) Information as to the contractor's "make-or-buy" program, purchasing system, and proposed subcontracts may be important to (1) negotiation of reasonable contract prices (see §§ 3.807-10 and 3.808); (2) assurance of satisfactory contract performance; or (3) carrying out Government policies regarding small business (§ 1.707-1 of this chapter), labor surplus areas (§ 1.805-1 of this chapter), acquisition and use of Government facilities, maintenance of mobilization base, or other policies which may be appropriate to the particular procurement. Therefore, Government surveillance of contractors' "make-or-buy" programs and proposed subcontracts is required as set forth in this subpart. Where "make-or-buy" decisions and subcontracting will have a substantial impact on any of the above mentioned factors, the contractor's "make-or-buy" program and subcontracting should, to the extent practicable, be evaluated and agreed on during negotiations.

§ 3.903-1 Contract clauses.

(a) The prescribed clauses, covering Government consent to subcontracts, for cost-reimbursement type contracts are set out in §§ 7.203-8 and 7.402-8 of this chapter. Except where definite and final evaluation of the contractor's subcontracting is accomplished during negotiations, the following clause (unless modified in accordance with paragraph (b) or (c) of this section) shall be included in all fixed-price incentive and

fixed-price redeterminable contracts where—

(1) It is anticipated that one or more subcontracts may each exceed \$100,000 or such other figure as is to be included in paragraph (b) (ii) and (iii) of the following clause in accordance with paragraph (c) of this section;

(2) The work of the prime contractor, or of the plant or division of the prime contractor which will perform the contract, is predominantly for the Government; or

(3) The estimated contract price is \$1,000,000 or more.

One of the clauses set forth in §§ 7.203-8 and 7.402-8 of this chapter, or below, whichever is appropriate, shall be included in each letter contract. In the event a letter contract is superseded by a definitive firm fixed-price contract or fixed-price contract with escalation, such clause shall be deleted at that time.

PART 4—SPECIAL TYPES AND METHODS OF PROCUREMENT

17. Section 4.203 is revised; subparagraph (2) of § 4.205-1(b) is revised; § 4.205-2 is revised; and § 4.503 is revoked, as follows:

§ 4.203 Publicizing procurement actions and expanding sources.

The Departments shall continually search for and develop information on sources (including small business concerns) competent to perform research and development. Advance publicity, including use of the Commerce Business Daily (see § 1.1003-4 of this chapter) to the fullest extent practicable, shall be given for this purpose. The search should include (a) a review of relevant data or brochures furnished by sources seeking research and development work and (b) a cooperative effort by technical personnel, small business specialists, and contracting officers to obtain information and recommendations with respect to potential sources and to consider the desirability of seeking other sources by publication of proposed procurements, in addition to the synopsis requirement.

§ 4.205-1 Selection of sources.

(b) Small business sources. * * *

(2) In order to cooperate with the Small Business Administration in carrying out its responsibility of assisting small business concerns to obtain contracts for research and development, contracting officers, technical personnel and small business specialists shall, upon request, provide to authorized SBA representatives information necessary to understand the Government's needs concerning research and development programs under consideration for specific future procurement actions. Normally, this information shall be provided to SBA representatives assigned to a purchasing activity, as early as practicable, and shall cover the Government's requirements for each proposed research and development procurement exceeding \$10,000. To the maximum extent feasible, SBA shall be afforded a minimum

of 15 working days to provide pertinent information concerning qualified potential small business sources developed through its investigation of the capabilities of specific firms in the particular field of research and development covered by such procurements. Full evaluation shall be given to any such information in selecting qualified sources. Exception to the policy of providing SBA a minimum 15 working day interval to recommend additional qualified small research and development sources for a proposed procurement will be permitted only in those cases where the head of the purchasing activity or his designated representative advises the SBA representative that such action would result in unjustifiable delay.

§ 4.205-2 Solicitation.

(a) In order to minimize the preparation of technical proposals, which can be both costly and wasteful of scientific or engineering manpower, contracting officers should request proposals only from sources which have been technically evaluated and found qualified to perform research or development in the specific field of science or technology involved. Where there is no substantial question as to the choice of the source, as where only one source is found fully qualified as a result of thorough technical evaluation or the purpose of the contract is to explore an idea or initial development submitted in confidence by one firm, solicitations may be limited to a single source. Where several sources are found fully qualified technically, proposals generally shall be solicited from each such source. Sources which become known as a result of synopses or other means of publicizing requirements shall be sent requests for proposals if such sources have been technically evaluated and determined reasonably qualified to perform, and possess any necessary security clearance. When a source not initially solicited requests a copy of a solicitation and such source has been technically evaluated and determined not qualified, he shall be so advised and his request shall be denied. In the event such source has not been technically evaluated, a copy of the request for proposal shall be furnished but only after advice has been given to the firm making the request as to the reasons for the limited solicitation and the unlikelihood of any other firm being able to qualify for a contract award under the circumstances. In all procurements of research or development in which no small business firm was solicited for a proposal, a statement shall be included in the solicitation file setting forth the reasons for not soliciting small business.

(b) In addition to paragraph (a) of this section, exploratory requests may be used to determine the existence of ideas or prior work in specific fields of research. However, the request for such information shall clearly state that it does not impose any obligation on the Government or signify a firm intention of the Government to enter into a contract.

§ 4.503 Procurement effected outside the United States. [Revoked]

PART 5—INTERDEPARTMENTAL AND COORDINATED PROCUREMENT

18. In § 5.102-3, the Federal Supply Schedules listed in paragraphs (a), (b), and (c) are amended by changing those listed under Group 25 in paragraph (a); by adding a Group 45 and a Group 68 in paragraph (a); by deleting the item

"Group 103, Regraining of Offset Duplicating Plates, Part II," in paragraph (b); and by completely revising paragraph (c), as follows:

§ 5.102-3 Applicability of listed Federal supply schedules.
* * * * *
(a) *Mandatory nationally.*

FSC		Title of schedule	Remarks
Group	Class		
*25		VEHICULAR EQUIPMENT COMPONENTS	
	2520	Brake lining and clutch facings (metallic)	Mandatory on field service of the DOD for tire chains, clutch facings and metallic brake linings, only.
	2530	Brake band lining (nonmetallic) and brake shoes, bonded or riveted-lined.	
	2540	Tire chains and truck floor mats. *This schedule also includes certain items in the following classes:	
	2990	Engine Preheater	
	4330	Oil filter elements	
***	***	***	***
45		INCINERATORS	
	4540	Air-fed emergency incinerators, models 1 and 2, and air-fed incinerator model 3.	No exceptions.
***	***	***	***
68		CHEMICALS AND GASES	
	6830	Gases, industrial and commercial (except helium).	No exceptions.
***	***	***	***

(b) *Mandatory in Washington, D.C., and contiguous area.*

FSC		Title of schedule	Remarks
Group	Class		
***	***	***	***
103	***	Regraining of offset duplicating plates, Part II.	[Deleted.]
***	***	***	***

(c) *Mandatory in GSA regional areas other than Region 3.*

FSC		Title of schedule	Remarks
Group	Class		
68	6810	CHEMICALS, PART IV Gases, Industrial and medicinal	Mandatory on DOD activities in Region 10.

19. Sections 5.201, 5.301(a), and 5.302 are revised to read as follows:

§ 5.201 Procurement from General Services Administration stores depots.

It is the policy of the Department of Defense that for an item which has been decentralized for local purchase and which is available from the General Services Administration stores depots, such items will be ordered from the Depots unless delivery requirements cannot be met. The mandatory provisions of Department of Defense, General Services Administration Interagency Purchase Assignments (§ 5.1201-7) are not applicable to decentralized items which are within these assignments and which are available from the stores depots. Such items will be ordered in accordance with the above stated policy.

§ 5.301 Federal Supply Service Consolidated Purchase Program.

(a) Items identified in § 5.1201-7 as being covered by the Department of

Defense/General Services Administration Interagency Purchase Assignments; and

§ 5.302 DOD-GSA interagency purchase assignments.

Mandatory use of the General Services Administration consolidated purchasing program is required for those centrally managed items covered by the interagency purchase assignments held by the General Services Administration as listed in § 5.1201-7.

20. Sections 5.1201, 5.1201-1, 5.1201-2, 5.1201-3, and 5.1201-4 are revised, and new §§ 5.1201-5, 5.1201-6 and 5.1201-7 are added, as follows:

§ 5.1201 Assignment authority.

The commodity assignments set forth below have been made by the Assistant Secretary of Defense (Installations and Logistics) to the Military Departments, the Defense Supply Agency, and the General Services Administration.

Federal supply class code	Commodity	Content
2410	CONSTRUCTION AND AGRICULTURAL EQUIPMENT AND TRACTORS	
2420	Tractors, full track, low speed.	
3210	Tractors, wheeled.	
3220	Sawmill and planing machinery.	
3066 P	Miscellaneous special industry machinery.	
3710	Soil preparation equipment.	
3720	Harvesting equipment.	
3805	Earth moving and excavating equipment.	
3810	Cranes and crane-shovels.	
3825	Road clearing and cleaning equipment.	
3895	Miscellaneous construction equipment.	
4520	Bridges, fixed and floating.	
	ELECTRONIC EQUIPMENT	
4210 P	FIREFIGHTING EQUIPMENT	
	MILLWORK	
5480 P	Storage tanks.	
	MOTOR VEHICLES, TRAILERS, AND CYCLES	
2310	Passenger motor vehicles.	
2320 P	Trucks and truck tractors.	
2330 P	Trailers.	
2340 P	Motorcycles, motor scooters, and bicycles.	
2480	Tractors, track laying high speed.	
	PAPER AND PAPER PRODUCTS	
6130 P	Reels and spools.	
	RAILWAY EQUIPMENT	
2110	Locomotives.	
2220	Rail cars.	
2230 P	Right-of-way construction and maintenance equipment, railroad.	
2240	Locomotive and rail car accessories and components.	
2250	Track materials, railroad.	
	TELEPHONE AND TELEGRAPH EQUIPMENT AND COMPONENTS, MILITARY	
5805 P	Telephone and telegraph equipment.	
5815 P	Teletype and facsimile equipment.	
5830 P	Intercommunication and public address systems except airborne.	
6025 P	Electrical and electronic properties measuring and testing instruments.	

Federal supply class code	Commodity	Content
2304(a) 12	Classified Purchases; i.e., purchases or contracts classified "Confidential" or higher, or where because of other considerations, a contract should not be publicly disclosed;	
	(d) Items to be procured under the authority of a determination and findings issued pursuant to Title 10, U.S.C. 2304(a) 14—Technical or Specialized Supplies, requiring substantial initial investment or extended period of preparation for manufacture;	
	(e) Items which are directly related to a weapon and which are both procured from and produced by the weapon manufacturer;	
	(f) Items subject to rapid design changes or to continuous redesign or modification during the production or operational use phases which necessitate continual contact between industry and technical personnel of the requiring service to insure that the item procured is exactly what is required;	
	(g) Containers procured only with items for which they are designed;	
	(h) Emergency procurements, as determined by the requiring activity;	
	(i) Procurements of service-managed or noncataloged items not in excess of \$2,500; and	
	(j) Noncataloged items in the nature of a one-time buy and not contemplated as an item of supply in the supply system.	
	Department of the Army.	
6800 P 1	Miscellaneous chemical specialties.	
	ANTI-FREEZE	
6135 P	BATTERIES, DRY CELL	
	Batteries, primary.	
	MILITARY CHEMICAL WARFARE EQUIPMENT AND SUPPLIES:	
4230 P	Decontaminating and impregnating equipment.	
4240 P	Safety and rescue equipment.	
6665 P	Hazard-detecting instruments and apparatus.	
6810 P 1	Chemicals.	
6820 P 1	Dyes.	
6850 P 1	Miscellaneous chemical specialties.	
6910 P	Training aids.	

§ 5.1201-1 Exclusions—Military Department assignments.
 General exclusions to applicability of commodity assignments made to a Military Department are:
 (a) Emergency procurements;
 (b) Procurements not in excess of \$2,500;
 (c) Authorized local purchase items in amounts not exceeding the economic central buy point;
 (d) Research and development items; and
 (e) Items which require continuous redesign or modification during the production phase.

§ 5.1201-2 Exclusions—Defense Supply Agency.
 With respect to commodity assignments made to the Defense Supply Agency, the following categories of items within an assigned class may be purchased by the Military Departments at their option:
 (a) Items in a research and development stage;
 (b) Items peculiar to atomic ordnance materiel because of design characteristics or because of test-inspection requirements which are controlled by the Atomic Energy Commission;
 (c) Items to be procured under the authority of a determination and findings issued pursuant to Title 10, U.S.C.

§ 5.1201-3 Department of the Army.
 Includes: Anti-freeze compounds which contain ethylene glycol, only.
 Includes: JAN type, dry cell batteries, only.
 Includes: Items peculiar to chemical warfare only.
 Includes: Military respiratory protective equipment for chemical warfare only.
 Includes: Items peculiar to chemical warfare only.
 Includes: Calcium hypochlorite only.
 Includes: Items peculiar to chemical warfare only.
 Includes: Agents decontaminating and impregnating military protective clothing for chemical warfare only.
 Includes: Items peculiar to chemical warfare only.

See footnotes at end of table.

Each Department is assigned procurement responsibility for those items which the Department either designed or for which it sponsored development, as listed in JANA P 140 and supplemental departmental listings.
 This assignment does not include firefighting trucks and airport crash firefighting vehicles developed by or under the sponsorship of a military department. The procurement responsibility for such trucks and aircraft firefighting vehicles is assigned to the developing department.

Includes: Tanks, wood, storage only.
 Excludes: Tracked landing vehicles, which are not under DOD procurement assignment; and airport crash rescue vehicles, which are under DOD procurement assignment to the Department of the Air Force.
 Excludes: Two wheel lubrication trailers, two wheel steam cleaning trailers, and troop transporter semi-trailers which are not under DOD procurement assignment; and airport crash rescue trailer units, which are under DOD procurement assignment to the Department of the Air Force.
 Excludes: Bicycles and tricycles.

Includes: Reels, paperboard; and spools, paperboard only.
 Excludes: Locomotive cranes which are under DOD procurement assignment to the Department of the Navy, and specialized types of locomotive cranes used in overseas areas with other than U.S. standard gauges and standard clearances which are not under DOD procurement assignment.
 Includes: Military (wire) equipment, field type, only.
 Includes: Military (wire) equipment, field type, only.
 Includes: Military (wire) equipment, field type, only.
 Includes: Instruments for testing military (wire) equipment, field type, only.

RULES AND REGULATIONS

Federal supply class code	Commodity	Content	Federal supply class code	Commodity	Content
6940	TELEPHONE AND TELEGRAPH EQUIPMENT AND COMPONENTS, MILITARY—continued		1310 P 3 1	WEAPONS, FIRE CONTROL EQUIPMENT, AMMUNITION AND EXPLOSIVES—continued	
8130 P	Communication training devices	Includes: Code training sets, code practice equipment, and other telephones and telegraph training devices, only.		Ammunition, over 30-mm up to 75-mm.	Includes: Ammunition, over 30-mm up to 75-mm, as listed in Army Supply Manual SM 9-5-1310. Excludes: Naval Ordnance type; 40-mm ammunition (which is under DOD procurement assignment to the Navy); and all other types not included above.
	Reels and spools	Includes: Reels and spools for military (wire) equipment, field type, only.	1315 P 3 1	Ammunition, 75-mm through 125-mm.	Includes: Ammunition, 75-mm through 125-mm, as listed in Army Supply Manual SM 9-5-1315. Excludes: Naval Ordnance type; and all other types not included above.
	TIME MEASURING INSTRUMENTS		1320 P 3 1	Ammunition, over 125-mm	Includes: Ammunition, over 125-mm, as listed in Army Supply Manual SM 9-5-1320. Excludes: Naval Ordnance type; and all other types not included above.
6645 P	Time measuring instruments	Includes: All watches; aircraft instrument panel clocks; and spare parts therefor, as follows: aircraft clocks; aircraft panel clocks; athletic timers; cases, carrying, navigation watch; cases, master navigational watch; cases, watch, pocket; clocks, aircraft, mechanical; holders, watch; navigation watches, master; pocket watches; stop watches; watches, wrist, second, setting; watch case assemblies; watch movements; wrist watches.	1325 P	Bombs	Includes: Bombs, as listed in Army Supply Manuals SM 9-5-1325; SM 9-5-1326; 30, 40, 45, 70, 75. Excludes: Fuzes, bombs herein assigned to the Navy; and all others not included above.
6695 P	Combination and miscellaneous instruments.		1330	Grenades	Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1005 P 3	WEAPONS, FIRE CONTROL EQUIPMENT, AMMUNITION AND EXPLOSIVES		1340 P	Rockets and rocket ammunition	Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1010 P 3	Guns, through 30-mm	Includes: Guns, through 30-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1005, 10, 15; SM 9-1006, 10, 15.	1345	Land mines	Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1015 P 3	Guns, over 30-mm up to 75-mm	Includes: Guns, over 30-mm up to 75-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1006, 10, 15; SM 9-1007, 10, 15.	1346	Military chemical agents	Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
	Guns, 75-mm through 125-mm	Includes: Guns, 75-mm through 125-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1007, 10, 15; SM 9-1008, 10, 15.	1370 P	Explosives, bulk propellants and explosives devices	Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1020 P 3	Guns over 125-mm	Includes: Guns, over 125-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1008, 10, 15; SM 9-1009, 30.	1375 P	Blasting agents and supplies	Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1040 4	Chemical weapons and equipment	Includes: Guns, through 30-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1009, 10, 15; SM 9-1010, 10, 15.			Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1055 P 3	Launchers, rocket and pyrotechnic	Includes: Guns, over 30-mm up to 75-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1010, 10, 15; SM 9-1011, 10, 15.			Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1065 P 3	Miscellaneous weapons	Includes: Guns, over 125-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1011, 10, 15; SM 9-1012, 30.			Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1210 P 3	Fire control directors	Includes: Guns, over 125-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1012, 30; SM 9-1013, 30.			Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1220 P 3	Fire control computing sights and devices	Includes: Guns, over 125-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1013, 30; SM 9-1014, 30.			Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1230 P 3	Fire control systems, complete	Includes: Guns, over 125-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1014, 30; SM 9-1015, 30.			Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1240 P 3	Optical sighting and ranging equipment	Includes: Guns, over 125-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1015, 30; SM 9-1016, 30.			Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1250 P 3	Fire control stabilizing mechanisms	Includes: Guns, over 125-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1016, 30; SM 9-1017, 30.			Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1260 P 3	Fire control designating and indicating equipment	Includes: Guns, over 125-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1017, 30; SM 9-1018, 30.			Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1265 P 3	Fire control transmitting and receiving equipment, except airborne	Includes: Guns, over 125-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1018, 30; SM 9-1019, 30.			Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1285 P 3	Fire control radar equipment, except airborne	Includes: Guns, over 125-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1019, 30; SM 9-1020, 30.			Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1290 P 3	Miscellaneous fire control equipment	Includes: Guns, over 125-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1020, 30; SM 9-1021, 30.			Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.
1305 P 3	Ammunition, through 30-mm	Includes: Guns, over 125-mm, and parts and equipment therefor, as listed in Army Supply Manuals SM 9-5-1021, 30; SM 9-1022, 30.			Includes: HE, AT, 3.5 In., M35; Practice, 3.5 In., M36; Smokes, WP, 3.5 In., M37; Drill, 4.5 In., M24; HE, 4.5 In., M32; Practice, 4.5 In., M33; incendiary and toxicological rockets, as listed in Army Supply Bulletin SB 3-33. Excludes: Rockets herein assigned to the Navy; and all others not included above.

See footnotes at end of table.

Federal supply class code	Commodity	Content	Federal supply class code	Commodity	Content
5430 P	SHIPS, SMALL CRAFT, AND RELATED MARINE EQUIPMENT—continued	Includes: Tanks, metal (enclosure only, not part of ship structure), for use aboard ships herein assigned, only.	1390 P	WEAPONS, FIRE CONTROL EQUIPMENT, AMMUNITION AND EXPLOSIVES—CON.	Includes: Fuzes and Primers for Navy assigned ammunition and V.T. fuzes, rotating type, only.
6105 P	Storage tanks	Includes: Motors for use aboard ships herein assigned, only.	4925 P	Fuzes and primers	Includes: Sets, kits, and outfits of explosive Ordnance tools and equipment as defined in OPNAV 8027.1B, AR 786-1300-6; AFR 136-8 and other similar documents in Ord Pamphlet 1551(C) and other similar documents of other services.
6115 P	Motors, electrical	Includes: Gasoline, diesel and steam engine-generator sets; generators, electric; and steam turbine-generator sets for use aboard ships herein assigned, only.	8140 P	Ammunition maintenance and repair shops specialized equipment	Excludes: All others not included above.
6125 P	Generators and generator sets	Includes: Motor-generator sets for use aboard ships herein assigned, only.		Ammunition boxes, packages, and special containers	Includes: Boxes, packages and containers for 40-mm ammunition, only.
6220 P	Converters, electrical	Includes: Fixed lights for use aboard ships herein assigned, only.			
6520 P	Electrical vehicular lights and fixtures	Includes: Alarm systems; fire alarm systems; indicating systems; telegraph systems (signals and signaling) (less electronic type); for use aboard ships herein assigned, only.			
6605 P	Shipboard alarm and signal systems	Includes: Hand leads (soundings); lead reels; sounding machines; stands, pelorus, for use aboard ships herein assigned, only.			
6650 P	Navigational instruments	Includes: Stands, telescope, for use aboard ships herein assigned, only.			
6655 P	Optical instruments	Includes: Hazard-determining safety devices, for use aboard ships herein assigned, only.			
6665 P	Hazard-detecting instruments and apparatus	Includes: Boxes, ammunition, for use aboard ships herein assigned, only.			
8140 P	Ammunition boxes, packages, and special containers				
6645 P	TIME MEASURING INSTRUMENTS				
6645 P	Time measuring instruments	Includes: All clocks, chronometers, and spare parts thereof, as follows: alarm clocks; boat clocks; cans, chronometer shipping and storage; carrying cases, chronometer; carry-lar cases, make-break circuit, chronometer; cases, chronometer; cases, chronometer, gimbal; cases, chronometer, padded; chronometers, make-break circuit meters, engine running time; clocks, direct reading; clocks, electric; clocks, floor; clocks, interval timer; clocks, marine, mechanical; clocks, master control; clocks, master program; clocks, master regulating; clocks, mechanical; clocks, message center; clocks, nurses; clocks, program; clocks, shelf; clocks, wall; clocks, watchmen's; clock motors; clock movements; clock, movements, electric; deck clocks; dials, clock; hourmeters; interval timers; marine clocks; meters hour recording; meters, time totalizing, electric; program control instruments; program timers; stop clocks; time period counters; timers, bombing; timers, engine hour; timers sequential; timers, stop.	2320 P	ELECTRONIC EQUIPMENT	Each Department is assigned procurement responsibility for those items which the Department either designed or for which it sponsored development, as listed in JANAP 140 and Supplemental Departmental Listings.
6645 P	Time measuring instruments		2330 P	FIREFIGHTING, RESCUE, AND SAFETY EQUIPMENT (AIRPORT)	Includes: Airport crash rescue vehicles, only.
1095 P	WEAPONS, FIRE CONTROL EQUIPMENT, AMMUNITION AND EXPLOSIVES	Includes: Guns, line throwing, only.	4210 P	Trucks and truck-tractors	This assignment does not include firefighting trucks and airport crash firefighting vehicles developed by or under the sponsorship of a Military Department. The procurement responsibility for such trucks and aircraft firefighting vehicles is assigned to the developing department.
1310 P	Miscellaneous weapons	Includes: 40-mm ammunition, only.		Trainers	Includes: Fixtures for airport lighting, alarm and signal systems, only.
1325 P 4, 1	Ammunition, over 30-mm up to 75-mm	Includes: Armor-piercing; depth bombs, externally suspended low drag bombs; and components and practice bombs therefor, as listed in Ord Pamphlet 1250 and OP 988.		Firefighting equipment	Excludes: Submarine periscope and underwater cameras. Excludes: Submarine periscope and underwater cameras. Excludes: 35-mm theatre projectors.
1340 P 1	Bombs	Includes: 2.25 In. Rocket SCAB, Practice; Heads Mk 3 and Mods; Motors Mk 15 and Mods, Mk 16 and Mods, 2.75 In. Rocket F.F.A.R., service and practice; Heads N-1 and Mods (General Purpose); Mk 5 and Mods (HEAT); Motors Mk 1 and Mods, Mk 2 and Mods, Mk 3 and Mods, Mk 4 and Mods (General Purpose); Mk 6 and Mods (GP); Heads Mk 2 and Mods (common), Mk 9 and Mods (GP); Mk 10 and Mods (snake), Mk 25 and Mods (A.T.A.R.); Mk 27 and Mods (GP), 5 In. Rocket F.F.A.R. service and practice; Heads Mk 24 and Mods (General Purpose); Mk 32 and Mods (Shared Charged), Mk 26 and Mods (Ullum); Motor Mk 16 and Mods.	6210 P	LIGHTING FIXTURES, AIRPORT	Includes: Fixtures for airport lighting, alarm and signal systems, only.
1340 P 1	Rockets and rocket ammunition	Excludes: Rockets included under above assignment to the Army.		Indoor and outdoor electric lighting fixtures	
				PHOTOGRAPHIC EQUIPMENT 1	
			6710 P	Cameras, motion picture	
			6720 P	Cameras, still picture	
			6730 P	Photographic projection equipment	
			6740	Photographic developing and finishing equipment	
			6760	Photographic equipment and accessories	
			6780	Photographic sets, kits, and outfits	

§ 5.1201-5 Department of the Air Force.

¹ Excludes photographic equipment controlled by the Congressional Joint Committee on Printing and Microfilm Equipment and Supplies.

§ 5.1201-6 Defense Supply Agency.¹

Federal supply class code	Commodity	Content
Automotive Supplies		
2510	Vehicular cab, body, and frame structural components.	
2520	Vehicular power transmission components.	
2530	Vehicular brake, steering, axle, wheel, and track components.	
2540	Vehicular furniture and accessories.	
2590	Miscellaneous vehicular components.	
2610 ¹	Tires and tubes, pneumatic, except aircraft.	
2630 ²	Tires, solid and cushion.	
2640	Tires rebuilding and tire and tube repair materials.	
2805	Gasoline reciprocating engines, except aircraft, and components.	
2910	Engine fuel system components, non-aircraft.	
2920	Engine electrical system components, non-aircraft.	
2930	Engine cooling system components, non-aircraft.	
2940	Engine air and oil filters, strainers, and cleaners, non-aircraft.	
2960	Miscellaneous engine accessories, non-aircraft.	
Clothing and Textiles Supplies		
6532	Hospital and surgical clothing and textile special purpose items. ¹	
7910	Household furnishings.	
8305 P	Textile fabrics.	
8310	Yarn and thread.	
8315 P	Notions and apparel findings.	
8320	Padding and stuffing materials.	
8325	Fur materials.	
8330	Leather.	
8335	Shoe findings and soling materials.	
8340	Felts and tarpaulin.	
8345	Rings and pennants.	
8405	Outerwear, men's.	
8410	Outerwear, women's.	
8415	Outerwear, children's.	
8420	Clothing, special purpose.	
8425	Underwear and nightwear, men's.	
8430	Underwear and nightwear, women's.	
8435	Footwear, men's.	
8440	Footwear, women's.	
8445	Hosiery, handwear, and clothing accessories, men's.	
8450	Hosiery, handwear, and clothing accessories, women's.	
8455	Children's and infants' apparel and accessories.	
8460	Badges and insignia.	
8465	Logos.	
8470	Individual equipment.	
8475	Armor, personal.	
8475	Specialized flight clothing and accessories.	
Construction Supplies		
2815	Diesel engines and components.	
3740	Pest, disease, and frost control equipment.	
3750	Gardening implements and tools.	
3815	Crane and crane-shovel attachments.	
3820	Mining, rock drilling, earth boring, and related equipment.	
3830	Truck and tractor attachments.	
3910	Conveyors.	
Electronic Supplies		
5905	Resistors.	
5910	Capacitors.	
5915	Filters and networks.	
5920	Fuses and lightning arrestors.	
5935	Circuit breakers.	
5930	Switches.	
5925	Connectors, electrical.	
5945	Relays, contractors, and solenoids.	
5950	Coils and transformers.	
5955	Piezoelectric crystals.	
5960	Electron tubes, transistors, and rectifying crystals.	
5965	Headsets, handsets, microphones, and speakers.	
5985	Antennas, waveguides, and related equipment.	
5990	Synchros and resolvers.	
5999	Miscellaneous electrical and electronic components.	
General Supplies		
3510	Laundry and dry cleaning equipment.	
3520	Shoe repairing equipment.	
3530	Industrial sewing machines and mobile textile repair shops.	
3540	Wrapping and packaging machinery.	
3550	Vending and coin operated machines.	
3590	Miscellaneous service and trade equipment.	
3920	Materials handling equipment, non-self-propelled.	
3930	Warehouse trucks and tractors, self-propelled.	

Commodity

Federal supply class code

Content

CONSTRUCTION SUPPLIES—continued

3950. Inches, hoists, cranes, and derricks.

4210 P. Fire fighting equipment.

4310. Compressors and vacuum pumps.

4320. Power and hand pumps.

4330. Centrifuges, separators, and pressure and vacuum filters.

4510. Plumbing fixtures and accessories.

4520. Space heating equipment and domestic water heaters.

4530. Fuel burning equipment units.

4540. Miscellaneous plumbing, heating, and sanitation equipment.

4610. Water purification equipment.

4620. Water distillation equipment, marine and industrial.

4630. Sewage treatment equipment.

4710. Pipe and tube.

4720. Hose and tubing, flexible.

4730. Fittings and specialties: Hose, pipe, and tube.

4810. Valves, powered.

4820. Valves, nonpowered.

5110. Prefabricated and portable buildings.

5440. Scaffolding equipment and concrete forms.

5450. Miscellaneous prefabricated structures.

5510. Lumber and related basic wood materials.

5520. Millwork.

5530. Plywood and veneer.

5610. Mineral construction materials, bulk.

5620. Building glass, tile, brick, and block.

5630. Pipe and conduit, nonmetallic.

5640. Wallboard, building paper, and thermal insulation materials.

5650. Roofing and siding materials.

5660. Fencing, fences and gates.

5670. Architectural and related metal products.

5680. Miscellaneous construction materials.

ELECTRONIC SUPPLIES

5905. Resistors.

5910. Capacitors.

5915. Filters and networks.

5920. Fuses and lightning arrestors.

5935. Circuit breakers.

5930. Switches.

5925. Connectors, electrical.

5945. Relays, contractors, and solenoids.

5950. Coils and transformers.

5955. Piezoelectric crystals.

5960. Electron tubes, transistors, and rectifying crystals.

5965. Headsets, handsets, microphones, and speakers.

5985. Antennas, waveguides, and related equipment.

5990. Synchros and resolvers.

5999. Miscellaneous electrical and electronic components.

GENERAL SUPPLIES

3510. Laundry and dry cleaning equipment.

3520. Shoe repairing equipment.

3530. Industrial sewing machines and mobile textile repair shops.

3540. Wrapping and packaging machinery.

3550. Vending and coin operated machines.

3590. Miscellaneous service and trade equipment.

3920. Materials handling equipment, non-self-propelled.

3930. Warehouse trucks and tractors, self-propelled.

See footnotes at end of table.

Federal supply class code	Commodity	Content	Commodity	Content
3990	Miscellaneous materials handling equipment.		8830	GENERAL SUPPLIES—continued Personal toiletry articles.
4110	Self-contained refrigeration units and fans.		8840	Paper and paperboard.
4140	Fans and air circulators, nonindustrial.		8850	Rubber fabricated materials.
5110	Hand tools, edged, nonpowered.		8860	Plastics fabricated materials.
5120	Hand tools, nonedged, nonpowered.		8870	Glass fabricated materials.
5130	Hand tools, power driven.		8880	Refractories and fire surfacing materials.
5133	Drill bits.		8890	Miscellaneous fabricated nonmetallic materials.
5136	Drill bits, counterbores and counter-sinks.		8905	Signs, advertising displays, and identification plates.
5140	Taps, dies, and collets.		9010	Jewelry.
5140	Tool and hardware boxes.		9015	Collectors' items.
5180	Sets, kits and outfits of hand tools.		9020	Smokers articles and matches.
5210	Measuring tools, craftsmen's.		9025	Ecclesiastical equipment, furnishings, and supplies.
5280	Sets, kits, and outfits of measuring tools.		9030	Memorials, ceremonial and mortuary equipment and supplies.
5940	Lugs, terminals and terminal strips.		9099	Miscellaneous items.
5970	Electrical insulators and insulating materials.			INDUSTRIAL SUPPLIES
5975	Electrical hardware and supplies.		3110	Bearings, antifriction, unmounted.
5977	Electrical contact brushes and electrodes.		3120	Bearings, plain, unmounted.
5985	Cable, cord and wire assemblies, communication equipment.		3130	Bearings, mounted.
6750	Photographic supplies.		3940	Books, tackle, rigging, and slings.
7105 ⁴	Household furniture.		4010	Chain and wire rope.
7110 ⁴	Office furniture.		4020	Fiber rope, cordage and twine.
7125 ⁴	Cabinets, lockers, bins, and shelving.		4030	Fittings for rope, cable and chain.
7165 ⁴	Miscellaneous furniture and fixtures.		5305	Screws.
7220	Floor coverings.		5306	Bolts.
7230	Draperies, awnings, and shades.		5307	Studs.
7240	Household and commercial utility containers.		5310	Nuts and washers.
7290	Miscellaneous household and commercial furnishings and appliances.		5315	Nails, keys, and pins.
7310	Food cooking, baking, and warming equipment.		5320	Fastening devices.
7320	Kitchen equipment and appliances.		5325	Packing and gasket materials.
7330	Kitchen hand tools and utensils.		5330	Metal screening.
7340	Cutlery and flatware.		5340	Miscellaneous hardware.
7350	Tableware.		5345	Disks and stones, abrasive.
7360	Sets, kits, and outfits, food preparation and serving.		5350	Abrasive materials.
7420 ⁴	Accounting and calculating machines.		5355	Knobs and pointers.
7430 ⁴	Typewriters and office type composing machines.		6145	Wire and cable, electrical.
7480	Visible record equipment (formerly in 7110).		8010	Paints, dopes, varnishes, and related products.
7490 ⁴	Miscellaneous office machines.		8020	Paint and artists' brushes.
7510 ⁴	Office supplies.		8030	Preservatives and sealing compounds.
7520 ⁴	Office devices and accessories.		8040	Adhesives.
7530 ⁴	Stationery and record forms.		8050	Wire, nonelectrical, iron and steel.
7710	Musical instruments.		8060	Plate, sheet, and strip. Iron and steel.
7720	Musical instrument parts and accessories.		8070	Structural shapes, iron and steel.
7730	Photographs, radios, and television sets.		8080	Wire, nonelectrical, nonferrous base metal.
7740	Home type.		8085	Bars and rods, nonferrous base metal.
7810	Photograph records.		8090	Plate, sheet, strip, and foil: Nonferrous base metal.
7820	Athletic and sporting equipment.		8095	Structural shapes, nonferrous base metal.
7830	Games, toys, and wheeled goods.		8100	Plate, sheet, strip, foil, and wire: precious metal.
7850	Recreational and gymnastic equipment.		8105	MEDICAL, DENTAL, VETERINARY AND RELATED EQUIPMENT AND SUPPLIES ⁴
7910	Floor polishes and vacuum cleaners.		6305	Drugs, biologicals, and official reagents.
7920	Brooms, brushes, mops, and sponges.		6510	Surgical dressings materials.
7930	Cleaning and polishing compounds and preparations.		6515	Medical and surgical instruments, equipment and supplies.
8105	Bags and sacks.		6520	Dental instruments, equipment and supplies.
8110	Drums and cans.		6525	X-ray equipment and supplies, medical, dental and veterinary.
8115	Boxes, cartons and crates.		6530	Hospital furniture, equipment, utensils, and supplies.
8125	Bottles and jars.		6540	Opticians' instruments, equipment and supplies.
8135	Packaging and packing bulk materials.			
8310	Perfumes, toilet preparations, and toilet soap.			
8520	Toilet soap, shaving preparations, and dentifrices.			

See footnotes at end of table.

- § 5.1202 Commodity assignments to single managers. [Revoked]
- § 5.1202-1 Defense Supply Agency. [Revoked]
- § 5.1203 Plant Cognizance Procurement Assignments.

PART 7—CONTRACT CLAUSES

22. A new paragraph (c) is added to § 7.103-12; §§ 7.104-12, 7.203-3, and 7.302-25 are revised; in § 7.402-24, paragraph (a) and the introductory portion of paragraph (b) are revised; and § 7.504-1 is revised, to read as follows:

§ 7.103-12 Disputes.

(c) In accordance with departmental procedures, the foregoing clauses may be modified to provide for intermediate appeal in overseas areas and in Alaska and Hawaii. Such modification may provide that decisions rendered pursuant thereto may be final and conclusive upon the parties, to the extent permitted by law, when the amount involved in the appeal is \$50,000 or less.

§ 7.104-12 Military security requirements.

(a) Except as provided in paragraph (b) of this section, insert the following clause in all contracts which are classified by a Department as "Confidential", including "Confidential—Modified Handling Authorized", or higher and in any other contracts the performance of which will require access to such classified information or material. In those cases where the situation so warrants because of the nature of the item or the conditions under which it is to be produced, the contract shall provide by a separate contract provision such additional security safeguards as may be required for the protection of that item. When the "Military Security Requirements" clause is inserted in any contract, the contracting officer or his authorized representative shall prepare and transmit to the contractor, material inspector, security officer of the cognizant military department having cognizance of the facility where the prime contract will be performed, and such other agencies as may be determined by the Departments, a Security Requirements Check List (DD Form 254) in accordance with § 16.811 of this chapter. The Security Requirements Check List will also be furnished by the contracting military department to the cognizant security office when a classified subcontract is placed under a prime contract which contains the "Military Security Requirements" clause. However, if the procurement is for a research contract, consultant service, or graphic arts service, in which there is no requirement for a breakdown by classification of the various elements of the contract, or subcontract, a letter or other written notice of classification for the entire contract may be used in lieu of the Security Requirements Check List.

MILITARY SECURITY REQUIREMENTS (JUNE 1958)

(a) The provisions of this clause shall apply to the extent that this contract involves access to information classified "Confiden-

tial" including "Confidential—Modified Handling Authorized" or higher.

(b) The Government shall notify the Contractor of the security classifications of this contract and the elements thereof, and of any subsequent revisions in such security classification, by the use of a Security Requirements Check List (DD Form 254), or other written notification.

(c) To the extent the Government has indicated as of the date of this contract or thereafter indicates security classification under this contract as provided in paragraph (b) above, the Contractor shall safeguard all classified elements of this contract and shall provide and maintain a system of security controls within his own organization in accordance with the requirements of—

(i) the Security Agreement (DD Form 441), including the Department of Defense Industrial Security Manual for Safeguarding Classified Information as in effect on the date of this contract, and any modification to the Security Agreement for the purpose of adapting the Manual to the Contractor's business; and

(ii) any amendments to said Manual made after the date of this contract, notice of which has been furnished to the Contractor by the Security Office of the Military Department having security cognizance over the facility.

(d) Representatives of the Military Department having security cognizance over the facility and representatives of the contracting Military Department shall have the right to inspect at reasonable intervals the procedures, methods, and facilities utilized by the Contractor in complying with the security requirements under this contract. Should the Government, through these representatives, determine that the Contractor is not complying with the security requirements of this contract the Contractor shall be informed in writing by the Security Office of the cognizant Military Department of the proper action to be taken in order to effect compliance with such requirements.

(e) If, subsequent to the date of this contract, the security classifications or security requirements under this contract are changed by the Government as provided in this clause and the security costs under this contract are thereby increased or decreased, the contract price shall be subject to an equitable adjustment by reason of such increased or decreased costs. Any equitable adjustment shall be accomplished in the same manner as if such changes were directed under the "Changes" clause in this contract.

(f) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified information, provisions which shall conform substantially to the language of this clause, including this paragraph (f) but excluding the last sentence of paragraph (e) of this clause.

(g) The Contractor also agrees that he shall determine that any subcontractor proposed by him for the furnishing of supplies and services which will involve access to classified information in the Contractor's custody has been granted an appropriate facility security clearance, which is still in effect, prior to being accorded access to such classified information.

(b) Contracts involving work to be performed outside the United States, its possessions, and Puerto Rico shall include, when required by the Armed Forces Industrial Security Regulation (see § 1.320 of this chapter), an appropriate security requirements clause as follows:

(1) The security requirements clause set forth in the AFISR for use in each country in which work is to be performed; or

(2) The clause set forth in paragraph (a) of this section, modified as appropriate, in the event the AFISR does not set forth a required clause or in the event that regulation merely prescribes the use of an "appropriate" clause.

§ 7.203-3 Limitation of cost.

LIMITATION OF COST (OCT. 1953)

(a) It is estimated that the total cost to the Government, exclusive of any fixed fee for the performance of this contract will not exceed the estimated cost set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost. If at any time the Contractor has reason to believe that the costs which he expects to incur in the performance of this contract in the next succeeding thirty (30) days, when added to all costs previously incurred, will exceed eight-five percent (85%) of the estimated cost then set forth in the Schedule, or if at any time, the Contractor has reason to believe that the total cost to the Government, exclusive of any fixed fee, for the performance of this contract will be substantially greater or less than the then estimated cost thereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving his revised estimate of such total cost for the performance of this contract.

(b) The Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost set forth in the Schedule, and the Contractor shall not be obligated to continue performance under the contract or to incur costs in excess of the estimated cost set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that such estimated cost has been increased and shall have specified in such notice a revised estimated cost which shall thereupon constitute the estimated cost of performance of this contract. When and to the extent that the estimated cost set forth in the Schedule has been increased, any costs incurred by the Contractor in excess of such estimated cost prior to the increase in estimated cost shall be allowable to the same extent as if such costs had been incurred after such increase in estimated cost.

In the foregoing clause, the period of "thirty (30) days" and the percentage of "eighty-five percent (85%)" may be varied in accordance with departmental procedures to a maximum of "sixty (60) days" and a minimum percentage of "seventy-five percent (75%)". In contracts which provide for cost-sharing, the clause set forth in § 7.402-2(b) shall be used, modified to read "30 days" and "85%" in lieu of "60 days" and "75%".

§ 7.302-25 Military security requirements.

(a) Except as provided in paragraph (b) of this section, insert an appropriate security requirements clause in accordance with the provisions of § 7.104-12.

(b) In any research and development contract with an educational institution when the contract is awarded on the basis of no profit, insert an appropriate security requirements clause in accordance with the provisions of § 7.402-24(b).

(c) The contracting officer or his authorized representative shall prepare and transmit to the contractor and the Government representative having security cognizance over the contract involved a Security Requirements Check List (DD Form 254) or other written notification,

in accordance with § 16.811 of this chapter.

§ 7.402-24 Military security requirements.

(a) Except in contracts without fee with educational institutions, insert the clause set forth in § 7.104-12(a), modified in accordance with § 7.204-12: *Provided*, That the reference to "fixed fee" may be deleted in any contract not providing for the payment of a fixed fee: *Provided further*, That the provisions of § 7.104-12(b) shall apply with respect to contracts to be performed outside the United States, its possessions, and Puerto Rico.

(b) The following clause shall be used in all contracts without fee with educational institutions, except that with respect to contracts to be performed outside the United States, its possessions, and Puerto Rico, the following clause may be used as a guide, unless the AFISR sets forth a required clause (see § 1.320 of this chapter and § 7.104-12(b)).

§ 7.504-1 Military security requirements.

Insert the clause set forth below in all contracts involving security information which are classified by a Military Department "Confidential", including "Confidential—Modified Handling Authorized", or higher and in any other contract, the performance of which will require access to classified matter, except that with respect to contracts to be performed outside the United States, its possessions, and Puerto Rico, the following clause may be used as a guide, unless the AFISR sets forth a required clause (see § 1.320 of this chapter and § 7.104-12(b)).

MILITARY SECURITY REQUIREMENTS (AUGUST 1963)

(a) The provisions of the following paragraphs of this clause shall apply only if and to the extent that this contract involves access to security information classified "Confidential", including "Confidential—Modified Handling Authorized", or higher.

(b) The Contractor (i) shall be responsible for safeguarding all classified security information in accordance with instructions furnished by the Contracting Officer, and shall not supply, disclose or otherwise permit access to classified security information to any unauthorized person, (ii) shall not make or permit to be made any reproductions of matter classified "Top Secret" except with the prior written authorization of the Contracting Officer, (iii) shall not make or permit to be made any reproductions of security information classified "Secret" or "Confidential", including "Confidential—Modified Handling Authorized", except as may be essential to performance of the contract, (iv) shall submit to the Contracting Officer, at such times as the Contracting Officer may direct, an accounting of all reproductions of security information classified "Confidential", including "Confidential—Modified Handling Authorized" or higher, and (v) shall not incorporate in any other project any matter which will disclose classified security information except with the prior written authorization of the Contracting Officer.

(c) Except with the prior written consent of the Secretary or his duly authorized representative, the Contractor (1) shall not permit any alien to have access to classified security information, and (ii) shall not permit any individual to have access to security information classified "Top Secret" or "Secret".

Access to security information classified "Confidential", including "Confidential—Modified Handling Authorized", will be granted only in accordance with governing regulations of the Department of Defense.

(d) The Contractor agrees to submit immediately to the Contracting Officer a complete confidential report of any information which the Contractor may have concerning existing or threatened espionage, sabotage, or subversive activity.

(e) The Government agrees that when necessary it shall indicate by security classification "Confidential", including "Confidential—Modified Handling Authorized" or higher, the degree of importance to the national defense of information to be furnished by the Contractor to the Government or by the Government to the Contractor, and the Government shall give written notice of such security classification to the Contractor and of any subsequent changes thereof. The Contractor is authorized to rely on any letter or other written instrument signed by the Contracting Officer changing the security classification of matter.

(f) Any disagreement concerning a question of fact arising under this clause shall be considered a dispute within the meaning of the clause of this contract entitled "Disputes."

PART 9—PATENTS, DATA, AND COPYRIGHTS

23. Section 9.107-5 is revised to read as follows:

§ 9.107-5 Contracts relating to civil defense.

In all contracts for experimental, developmental, or research work relating primarily to supplies or services intended for the general public for civil defense purposes, in lieu of paragraph (b) (1) of the Patent Rights clause prescribed in § 9.107-2(b), the paragraph set forth below—

(a) Shall be inserted in all such contracts entered into on behalf of and funded in whole by the Office of Civil Defense, unless such Office agrees to its exclusion; and

(b) May be inserted in all such contracts other than those in paragraph (a) of this section.

(b) (1) The Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, and royalty-free license to practice, and cause to be practiced by or for the United States Government, throughout the world, each Subject Invention in the manufacture, use, and disposition according to law, of any article or material, and in the use of any method. Such license:

(1) shall be nontransferable, except that the Government shall have—

(A) the right to grant sublicenses to any foreign government or international organization specifically for use in programs established by International Agreements for research, development, or production of weapons or equipment for mutual defense; and

(B) the right to grant sublicenses to others to practice each Subject Invention in the manufacture, use, and sale of any article or in the use of any method for the purpose of providing supplies or services to the general public in the furtherance of the nation's civil defense; and

(ii) shall include the practice of any Subject Invention in the manufacture, use, and disposition of any article or material, in the

use of any method, or in the performance of any service acquired by or for the Government or with funds derived through the Military Assistance Program of the Government or otherwise through the Government. (Aug. 1963)

PART 10—BONDS AND INSURANCE

24. A new paragraph (d) is added to § 10.103-2; and a new paragraph (d) is added to § 10.104-2; and § 10.201 is revised, as follows:

§ 10.103-2 Performance bonds in connection with construction contracts.

(d) *Subcontracts*. If a contracting officer requires a contractor to obtain performance bonds from his subcontractors, such performance bonds shall not be executed on Standard Form 25 or Standard Form 27. The suggested format set forth in § 16.805(j) of this chapter is authorized and may be adapted to fit specific cases.

§ 10.104-2 Payment bonds in connection with construction contracts.

(d) *Subcontracts*. If a contracting officer requires a contractor to obtain payment bonds from his subcontractors, such payment bonds shall not be executed on Standard Form 25A or Standard Form 27A. The suggested format set forth in § 16.805(k) of this chapter is authorized and may be adapted to fit specific cases.

§ 10.201 General requirements of sureties.

Every bond required or used in connection with a contract for supplies, services, or construction shall be supported by good and sufficient surety (corporate or individual) except as provided in § 10.202. In connection with contracts for supplies, services, or construction to be delivered or performed in the United States, its possessions (other than the Canal Zone), or Puerto Rico:

(a) Invitations for bids or requests for proposals shall not require that only corporate sureties may be furnished or that a particular corporate surety be furnished, except as may be otherwise specifically provided (e.g., position schedule bonds may be obtained only from corporate sureties); and

(b) Any corporate surety offered for a bond furnished the Government, or furnished pursuant to a Government contractual requirement, where the contracting officer has authority to approve the sufficiency of the surety, must appear on the Treasury Department List (TD Circular 570) and the amount of the bond must not be in excess of the underwriting limits stated in that list.

In connection with contracts to be performed in the Canal Zone, corporate Panamanian surety companies which are acceptable on bonds required by the Panama Canal Company may be accepted in addition to the corporate sureties appearing on the Treasury List. The acceptability of Panamanian sureties shall be subject to the conditions and restrictions (including any requirement for security deposits) similar to

those imposed by the Panama Canal Company, and to a determination by the contracting officer that the amount of the bond is commensurate with the underwriting capacity of the surety. For contracts to be performed in a foreign country, sureties not appearing on Treasury Department Circular 570 are acceptable if it is determined by the contracting officer that it is impracticable for the contractor to use Treasury listed sureties.

PART 12—LABOR

25. Section 12.301 is revised; a new paragraph (f) is added to § 12.302; and in § 12.403-2, revoke subparagraph (1) and revise subparagraph (3) as follows:

§ 12.301 Statutory requirement.

In accordance with the requirement of the Work Hours Act of 1962, 76 Stat. 357-360, certain contracts entered into by any department shall contain a clause to the effect that no laborer or mechanic doing any part of the work contemplated by the contract shall be required or permitted to work more than eight hours in any one calendar day or 40 hours in any work week unless such laborer or mechanic is compensated for all hours worked in excess of eight hours in any one calendar day or 40 hours in any work week at not less than one and one-half times the basic rate of pay.

§ 12.302 Applicability.

(f) Contracts of \$2,500 or less (but see § 12.403-1 as to construction contracts over \$2,000).

§ 12.403-2 Contracts for \$2,000 or less.

(1) *Eight-hour laws—overtime compensation.* [Revoked]

(3) *Subcontractors—Termination.*

SUBCONTRACTORS—TERMINATION (AUG. 1963)

The Contractor agrees to insert the clause hereof entitled "Nonrebate of Wages" in all subcontracts under this contract. The term "Contractor" as used in such clause in any subcontract shall be deemed to refer to the subcontractor. Breach of the requirements of this clause may be grounds for termination of this contract.

26. Sections 12.404-2(c), 12.801, 12.802 and 12.803 are revised to read as follows:

§ 12.404-2 Wage determinations.

(c) *Modifications.* (1) Modifications by the Secretary of Labor of an original wage determination shall be made part of the proposed contract if received prior to the award of the contract; *Provided*, That, in a formally advertised procurement, any modification received by the department concerned less than five calendar days before the opening of bids may be disregarded if award is made within 30 calendar days after the opening of bids or within 90 calendar days from the date of the original wage determination, whichever is the earlier. Therefore, all copies of modifications and determinations shall be time-date

stamped to show when they were first received by the department.

(2) Pursuant to subparagraph (1) of this paragraph, if a new determination or a modification is received by the Department five or more days before bid opening, the contracting officer shall:

(i) If the modification or new determination is received by the contracting officer before the bid opening, notify bidders of the new rates by an amendment to the invitation for bids and extend the date of opening if necessary; or

(ii) If the modification or new determination is received by the contracting officer after bid opening, use the following procedure:

(a) If there are no changes to applicable wage rates or if there are increases which the low responsible, responsive bidder will accept without change in his bid price, award shall be made to such low bidder: *Provided*, That written acceptance of the new rates is obtained from such low bidder and is attached to the bid and that the new rates are made a part of the contract.

(b) If any applicable wage rate is decreased or if there is any increase which the low responsible, responsive bidder will not accept without change in his bid price, award will not be made until the procurement has been readvertised using a correct, current determination.

§ 12.301 Policy.

Executive Order No. 10925, dated 6 March 1961, as amended by Executive Order No. 11114, dated 22 June 1963, states that discrimination because of race, creed, color or national origin is contrary to the Constitutional principles and policies of the United States, and that it is the plain and positive obligation of the U.S. Government to promote and insure equal opportunity for all qualified persons, without regard to race, creed, color or national origin, employed by, or seeking employment with, Government contractors. To carry out this policy, the President's Committee on Equal Employment Opportunity was created by the Executive Order to provide regulations, guide lines and instructions to Government agencies. The head of each contracting agency was made primarily responsible for obtaining compliance by any contractor or subcontractor with the provisions of the Executive Order and the rules, regulations, and orders of the President's Committee. Although initial emphasis should be placed upon methods of conference, conciliation, mediation and persuasion, if such measures do not succeed in obtaining the necessary degree of progress, consideration will be given to invoking the appropriate sanctions as set forth in § 12.806-8.

§ 12.302 Basic requirement.

(a) Except as set forth in paragraph (d) of this section and in § 12.803, each department shall include in each of its contracts the following clause:

NONDISCRIMINATION IN EMPLOYMENT (JUNE 1963)

During the performance of this contract, the Contractor agrees as follow:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited, to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Agency Contracting Officer, advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order No. 10925 of March 6, 1961, as amended, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

(5) The Contractor will furnish all information and reports required by Executive Order No. 10925 of March 6, 1961, as amended, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's non-compliance with the nondiscrimination clause of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 10925 of March 6, 1961, as amended, and such other sanctions, may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation, or order of the President's Committee on Equal Employment Opportunity, or as otherwise provided by law.

(7) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to section 303 of Executive Order No. 10925 of March 6, 1961, as amended, so that such provisions will be binding upon each subcontractor or vendor.¹ The contractor will take

¹In accordance with regulations of the President's Committee on Equal Employment Opportunity, Subcontractors below the first tier shall not be required to insert the Nondiscrimination in Employment clause in their subcontracts, except that under contracts calling for construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property, each Subcontractor below the first tier shall include the

such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

(b) Supplemental agreements that increase the scope of the contract work shall include the clause set forth above, unless exempt in accordance with § 12.803 or unless the clause is contained in the existing contract. Change orders, price redeterminations, and unilateral contract modifications are not included in this requirement.

(c) Prime contractors and subcontractors may make necessary modifications in language in the clause as shall be appropriate to identify properly the parties and their undertakings. Subcontractors may incorporate by reference the above contract clause.

(d) All indefinite quantity contracts, requirements contracts, and basic ordering agreements, which are to extend for more than one year or continue indefinitely, unless exempt under § 12.803, shall contain the clause set forth in paragraph (a) of this section, prefaced by the following sentence:

The following clause shall be applicable upon written notice by the contracting officer.

§ 12.803 Applicability and exemptions.

(a) The clause set forth in § 12.802 shall not be included in the following:

(1) contracts or subcontracts not involving the employment of persons;

(2) contracts, or subcontracts for \$10,000 or less, except Government bills of lading which are required to contain the clause or a reference to the Executive Order, regardless of their amount: *Provided, however,* That with respect to Government bills of lading carriers are exempt from complying with paragraphs (3) through (7) of the clause unless otherwise specifically ordered by the Department or the Executive Vice Chairman of the President's Committee;

(3) Contracts or subcontracts for standard commercial supplies or raw materials not in excess of \$100,000;

(4) Contracts or subcontracts to be performed outside the United States where no recruitment of workers within the United States is involved (where a contract involves performance of work or recruitment of workers both within and outside the United States, the Non-discrimination in Employment clause will be included in the contract but will be applicable only to work and recruitment within the United States); United States as used herein includes the Commonwealth of Puerto Rico, the Panama Canal Zone and the possessions of the United States.

(5) Contracts for the sale of Government property, where supplies are not

clause in every subcontract which calls for such work to be performed at the site of construction, or except upon Special Order of the Secretary of the Department or the Executive Vice Chairman of the President's Committee.

furnished nor services rendered to the Government; or

(6) Each requirements or indefinite quantity contract and subcontract thereunder, and each basic ordering agreement, under the following circumstances:

(i) When it is not to extend for more than one year and the contracting officer (or in the case of subcontractors, the prime contractor or subcontractor issuing the subcontract) determines that the amounts to be ordered are reasonably not expected to exceed \$100,000 in the case of standard commercial supplies and raw materials, or \$10,000 in all other cases; or

(ii) When it is to extend for more than one year or continue indefinitely and the contracting officer (or in the case of subcontractors, the prime contractor or subcontractor issuing the subcontract) knows in advance that the amounts to be ordered in any year will not exceed the dollar limitations set forth in subdivision (i) of this subparagraph.

A determination to exclude the contract clause pursuant to subdivisions (i) and (ii) of this subparagraph above shall be effective through the life of the contract or agreement even though the amounts actually ordered exceed the above dollar limitations, unless the scope of the contract or agreement is increased, in which case an appropriate determination for the modified contract or agreement, if not otherwise exempt, shall be made in accordance with these provisions.

(7) Contracts or subcontracts exempt under § 12.804.

(b) When the contract clause is included in an indefinite quantity or requirements contract or subcontract or a basic ordering agreement which is not to extend for more than one year, the clause shall apply even though the amounts actually ordered do not exceed the appropriate dollar limitations.

(c) When the contract clause is included in an indefinite quantity or requirements contract or subcontract or a basic ordering agreement which is to extend for more than one year or continue indefinitely, the applicability of the clause shall be determined by the contracting officer at the time of award for the first year, based upon the amounts that are reasonably expected to be ordered during such year. In the event the clause has not previously been determined applicable, the contracting officer, at the conclusion of each year's performance, shall determine whether the clause applies, based upon the amounts that are reasonably expected to be ordered during the succeeding year. Once the clause is determined to be applicable, the contract or subcontract shall continue for its duration to be subject to such provisions, regardless of the amounts ordered, or reasonably expected to be ordered, in any succeeding year. If the clause is determined to be applicable, the contracting officer shall give written notice of such determination to the contractor. In the case of subcontracts, the appropriate determination and notification shall be made by the

prime contractor or subcontractor issuing the subcontract.

27. The introductory sentence in § 12.-805 is revised; and §§ 12.806-4(a) and 12.806-7(c) are revised, as follows:

§ 12.805 Interpretations.

In the application and enforcement of the provisions of Executive Order 10925, as amended, and of the rules and regulations of the President's Committee, the following interpretations are applicable:

§ 12.806-4 Compliance reports.

(a) The contracting officer shall require each contractor having a contract subject to the provisions of section 301 of Executive Order 10925, as amended, to file, and each contractor shall cause each of his first-tier subcontractors not exempted under the provisions of § 12.803 to file, compliance reports in accordance with instructions attached to the official Compliance Report, Standard Form 40. Subsequent reporting shall be accomplished as indicated in those instructions. Whenever a contractor or subcontractor is currently engaged in the performance of any part or all of another contract or subcontract subject to the nondiscrimination clause with any Government agency, and has filed within a current reporting period, a compliance report covering the plants, facilities, and activities which will be involved in the performance of a new contract, this requirement shall be satisfied by the filing, with the contracting officer, of the Certificate of Submission of Compliance Report, Standard Form 40A.

§ 12.806-7 Processing of complaints.

(c) The preparation and submission, within 60 days from receipt of the complaint by the department, or within such additional time as may be allowed by the Executive Vice Chairman for good cause shown, of a summary report to the Executive Vice Chairman setting forth (1) the name and address of the complainant, (2) a brief summary of the findings, (3) a statement of the disposition of the case, including any corrective action taken or sanction imposed, or (4) whenever appropriate, the recommended corrective action and sanctions or penalties; and

PART 13—GOVERNMENT PROPERTY

28. Revise §§ 13.302 and 13.304, and introductory portion of § 13.504, to read as follows:

§ 13.302 Fixed-price procurement—contractor-furnished or acquired special tooling.

(a) Where special tooling required for the performance of a negotiated fixed-price contract for supplies or services is not furnished by the Government, newly made or acquired special tooling may be furnished or acquired by the contractor under one of the following arrangements:

(1) The contract may provide for the acquisition of such special tooling by the

contractor and the delivery thereof to the Government as an end item under the contract. In any such case, the rights of the parties in special tooling shall be governed by the provisions of the contract and the schedule; or

(2) Where the contract does not provide for delivery of such special tooling as an end item under the contract, the clause set forth in § 13.504 shall be used.

(b) In formally advertised procurements, the clause set forth in § 13.504 shall not be used. When it is determined necessary that the Government acquire title to any special tooling in advertised procurements, such special tooling shall be acquired as an end item under the contract and described in sufficient detail so as to enable the submission of bids, and evaluation thereof, on a common and equal basis. It may be desirable to consider the two-step formal advertising procedures as a means for providing a sufficient description of the special tooling.

§ 13.304 Fixed-price negotiated procurement—special tooling furnished or acquired by subcontractors.

In the event the prime contractor enters into subcontracts or issues any purchase orders, the performance of which involves the use of special tooling to be furnished or acquired by the subcontractor or vendor, there will be included in such subcontracts or purchase orders appropriate provisions to the extent required by paragraph (k) (or by alternate paragraph (k)) of the special tooling clause set forth in § 13.504 giving the prime contractor rights comparable to those granted to the Government by such clause. The prime contractor shall exercise his rights in such special tooling for the benefit of the Government in accordance with any directions issued by the contracting officer, who shall be guided by the policies set forth in § 13.303.

§ 13.504 Special tooling clause for negotiated fixed-price contracts.

The following clause shall be used in fixed-price contracts for supplies or services (except contracts for experimental, developmental, or research work) for the performance of which the contractor furnishes special tooling, under the conditions set forth in § 13.302(a)(2), but is not for use in formally advertised procurements or contracts in which special tooling is called for as a separate item in the schedule (see § 13.302(a)(1)).

PART 16—PROCUREMENT FORMS

29. Sections 16.504 and 16.805 are revised to read as follows:

§ 16.504 Order for paid advertisements (Standard Forms 1143 and 1143a).

The following forms will be used to order and effect payment for advertisements in newspapers (see § 1.1002-6 of this chapter):

- (a) Standard Form 1143, Advertising Order (original) (face) Public Voucher for Advertising (original) (reverse); and
- (b) Standard Form 1143a, Advertising Order (memorandum) (face) Public Voucher for Advertising (memorandum) (reverse).

§ 16.805 Bond forms.

The bond forms listed below are available for use in accordance with Departmental procedures. (See Subparts A and B, Part 10 of this chapter.)

- (a) Bid Bond (Standard Form 24).
- (b) Annual Bid Bond (Standard Form 34).
- (c) Performance Bond (Standard Form 25).
- (d) Payment Bond (Standard Form 25A).
- (e) Performance Bond (Corporate Co-Surety) (Standard Form 27).
- (f) Payment Bond (Corporate Co-Surety) (Standard Form 27A).
- (g) Continuation Sheet (Corporate Co-Surety) (Standard Form 27B).
- (h) Affidavit of Individual Surety (Standard Form 28).
- (i) Annual Performance Bond (Standard Form 35).
- (j) Performance Bond Form for Subcontracts (see § 10.103-2(d) of this chapter).

Performance Bond	Date Bond Executed
Principal	
Surety	
Obligee	
Penal Sum of Bond (express in words and figures)	Contract Identification and Date

In Presence of:

WITNESS	INDIVIDUAL PRINCIPAL
1. as to	..... [SEAL]
2. as to	..... [SEAL]
3. as to	..... [SEAL]
4. as to	..... [SEAL]

WITNESS	INDIVIDUAL SURETY
1. as to	..... [SEAL]
2. as to	..... [SEAL]

Attest:	CORPORATE PRINCIPAL	
	BUSINESS ADDRESS	
	BY	AFFIX CORPORATE SEAL
Attest:	CORPORATE SURETY	
	BUSINESS ADDRESS	
	BY	AFFIX CORPORATE SEAL
	TITLE	

(k) Payment Bond Form for Subcontracts (see § 10.104-2(d) of this chapter).

Payment Bond	Date Bond Executed
Principal	
Surety	
Obligee	
Penal Sum of Bond (express in words and figures)	Contract Identification and Date

KNOW ALL MEN BY THESE PRESENTS, That we, the PRINCIPLE and SURETY above named, are held and firmly bound unto the Obligee above named, in the amount of the penal

KNOW ALL MEN BY THESE PRESENTS, That we, the PRINCIPAL and SURETY above named, are held and firmly bound unto the Oblige above named in the amount of the penal sum stated above, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Oblige and Principal have entered into a certain contract identified above, which contract is by reference made a part hereof and is hereinafter referred to as the contract.

Now, THEREFORE, the condition of this obligation is such that if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said Contract, then this obligation shall be null and void; otherwise to remain in full force and virtue.

1. The Contract includes all duly authorized modifications and extensions thereof, with or without notice to the Surety and extends to any guaranty required by the terms thereof.

2. The rights of the Oblige hereunder may be assigned to the United States of America or a Department or Agency thereof, and without in any manner invalidating or qualifying this instrument. Notice of assignment shall be given the surety within a reasonable time, but a failure of notice shall not affect the validity of this bond or the assignment.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents being duly signed by its undersigned representative, pursuant to authority of its governing body.

sum stated above, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Oblige and the Principal entered into a certain contract identified above, which contract is by reference made a part hereof and is hereinafter referred to as the Contract; and

WHEREAS, performance of the Contract is related to work required under Government Prime Contract the site of such work being in the County of, State of, being hereinafter referred to as the "place where the work is located."

Now, THEREFORE, the condition of this obligation is such that if the Principal shall promptly make payment to all claimants as

hereinafter defined, for all labor and material furnished in the prosecution of the work provided for in the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect. A claimant shall have a direct right of action hereunder against the Principal and the Surety subject to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a subcontractor of the Principal who has furnished labor, material or both, in the prosecution of work provided for in the contract and who has not been paid in full therefor. Labor and material are construed to include, but are not limited to, that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. The above named Principal and Surety hereby jointly and severally agree with the Obligees that every claimant who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed or materials were furnished by such claimant, or before the expiration of the period provided by the law of the place where the work is located for the giving of first notice of a lien of the category claimed by the claimant, whichever period be longer, may prosecute the suit to final judgment for such sum or sums as may be justly due the claimant, and may have execution thereon; provided, however, that neither the Obligees nor the assignee of the Obligees shall be liable for the payment of any costs or expenses of any such suit, judgment or execution.

3. The Obligees may assign this instrument and any right it has hereunder to the United States of America or any department or agency thereof without in any way diminishing the obligations of the Principal and Surety hereunder.

4. No suit or action shall be commenced hereunder by any claimant,

(a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to the Principal and the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or from whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered or certified mail, postage prepaid, in envelopes addressed to the Principal and the Surety, at any place where an office is regularly maintained by the addressee for the transaction of business, or served in any manner in which legal process may be served in the place where the work is located, save that such service need not be made by a public officer.

(b) After the expiration of one (1) year following the date on which Principal ceased work on said Contract. If any period of limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

(c) Other than in a court of competent jurisdiction in and for the state or other political subdivision of the place where the work is located, or in the United States District Court for the district where the work is located, and not elsewhere.

5. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under

their several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and

these presents being duly signed by its undersigned representative pursuant to authority of its governing body.

In Presence of:		WITNESS		INDIVIDUAL SURETY	
1.	.....	as to	.....	[SEAL]	
2.	.....	as to	.....	[SEAL]	
3.	.....	as to	.....	[SEAL]	
4.	.....	as to	.....	[SEAL]	
Attest:		WITNESS		INDIVIDUAL-PRINCIPAL	
1.	.....	as to	.....	[SEAL]	
2.	.....	as to	.....	[SEAL]	
Attest:		CORPORATE PRINCIPAL			
		BUSINESS ADDRESS			
		BY		AFFIX CORPORATE SEAL	
		TITLE			
Attest:		CORPORATE SURETY			
		BUSINESS ADDRESS			
		BY		AFFIX CORPORATE SEAL	
		TITLE			

PART 17—EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE

30. Section 17.502 is revised to read as follows:

§ 17.502 Executive Order No. 10789 of November 14, 1958 as amended by Executive Order 11051, of September 27, 1962.

The text of these executive orders are contained in 23 F.R. 8897, November 15, 1958, and 27 F.R. 9683, October 2, 1962.

PART 30—APPENDIXES TO ARMED SERVICES PROCUREMENT REGULATIONS

31. In § 30.2, revise items 304.7 and 401; and in § 30.3, revise item 307, as follows:

§ 30.2 Appendix B—Manual for control of Government property in possession of contractors.

304.7 Financial Control Accounts—(a) Industrial facilities. The contractor's property control system should be such as to provide semi-annually the dollar amount of Government-owned industrial facilities for each Military Department or Defense Agency, in the following classifications:

- (i) Land and rights therein;
- (ii) Utility distribution systems;
- (iii) Buildings, structures and improvements thereto, excluding plant equipment;
- (iv) Plant equipment, excluding production equipment and minor plant equipment; and
- (v) Production equipment.

The contractor's accounts will be susceptible to local reconciliation in total and subtotals as to whether contractor-acquired or Government-furnished. Reports of dollar amounts by the above classifications shall be furnished by the contractor to the property administrator upon request; but, such reports shall not be required more often than semi-annually.

(b) Material. The contractor shall furnish the total dollar amounts of all Govern-

ment material which may be in his possession and shall separately indicate the amount attributable to material which has been furnished by the Government, and material which has been acquired by the contractor, title to which is in the Government. However, the following types of Government material are exempted from reporting:

- (i) Scrap and salvage,
- (ii) Items forwarded to the contractor for repair and return to the Government,
- (iii) Work in process,
- (iv) Government material estimated to amount to less than \$2,500 on any one contract, and
- (v) Government shipping containers.

Such reports shall be furnished by the contractor upon the request of the property administrator: *Provided*, That such reports shall not be required more often than semi-annually. Bureau of the Budget Report Control Symbol No. 22-R232 has been assigned to the reports required under (a) and (b).

401 Identification. All Government property shall be recorded and identified as such by the contractor promptly upon receipt, and it shall remain so identified so long as it remains in the custody, control or possession of the contractor.

(a) Extent of identification. (1) As a general rule, all Government material and minor plant equipment shall be identified as Government property except in those cases where:

- (i) No materials or minor plant equipment of the same type at the same location are owned by the contractor, his employees, or other contracting agencies;
- (ii) Adequate physical control is maintained over tool-crib items, guard force items, protective clothing and other items issued for use by individuals in the performance of their work under the contract;
- (iii) Property is of bulk type or by its general nature of packing or handling precludes adequate marking, as may be determined by the property administrator; and
- (iv) Where property is commingled, as authorized by 206 of this section.

(2) Government-owned special tooling shall be marked with the designation of the Military Department responsible for funding and control of such tooling, as follows: Army—"USA", Navy—"USN", Air Force—

"USAF", and Defense Supply Agency—"USD", unless it is determined that such marking will damage the special tooling or is otherwise impracticable. Marking and identification procedures may be expanded by the Department having cognizance over the tooling to include end item reference, drawing number, and such other information as may be desired in a given case.

(3) Unless already marked in accordance with these instructions, all Government-owned plant equipment, including industrial reserve plant equipment, shall be marked by the contractor with a Government identification number, except minor plant equipment; or when the size of the equipment or nature of the material for which it is made makes it impracticable, and in which case such item will be assigned a Government identification number for record purposes, which number shall be shown in the plant equipment property records; or the equipment is accessory or auxiliary and attached to or otherwise a part of an item of plant equipment and is required for its normal operation (see 304.3(a) of this section), in which case such item shall be entered and described on the record of the equipment to which it is attached or of which it is otherwise a part. Once a Government identification number has been affixed to an item of plant equipment, the identification will be permanent and will not be changed so long as the equipment remains under the control of the same Military Department (but see (4) below). Identification shall be effected by affixing a metal, fibre, plastic, or other plate directly to the equipment; by using indelible ink, acid or electric etch, steel dies, or any other legible, permanent, conspicuous, and tamper-proof method. Identification shall consist of the following markings:

(i) An indication of Government ownership and of the Military Department responsible for funding and control of the plant equipment, as follows: Army—"USA", Navy—"USN", Air Force—"USAF", and Defense Supply Agency—"USD"; however, the identification "U.S." property shall not be charged solely to conform to the provisions of this paragraph.

(ii) A two-part identification number, furnished by the Government, consisting solely of numerals except as provided in (iii) below. The first part shall be the property account number, and the second part shall be a serial number. In case plant equipment furnished by the Government is already identified as property of a Military Department, no change shall be made in the markings, except as provided in (4) below.

(iii) In the case of items included within a standard Departmental registration system, for example, automotive, construction, or weight-handling equipment, application for a proper registration number will be made to the cognizant Department, which number shall be used in lieu of any other identification number.

(4) Government identification markings shall be removed prior to sale or scrapping. The markings so removed shall be shown on the appropriate documents involved. In the case of a transfer of funding and control responsibilities to other Military Departments, new Government identification markings, in accordance with the requirements of (2) or (3) above, may be affixed upon receipt of the equipment by the receiving Military Department.

(b) *Recording Government identification numbers.* Assigned Government property identification numbers will be recorded on all applicable receiving documents, shipping documents, and any other documents pertaining to the property accounts.

§ 30.3 Appendix C—Manual for control of Government property in possession of nonprofit research and development contractors.

307 *Identification.* All Government property shall be recorded and identified as such by the contractor promptly upon receipt, and it shall remain so identified so long as it remains in the custody, control or possession of the contractor.

(a) *Extent of identification.* (1) As a general rule, all Government material and minor plant equipment shall be identified as Government property except in those cases where—

(A) No materials or minor plant equipment of the same type at the same location are owned by the contractor, his employees, or other contracting agencies;

(B) Adequate physical control is maintained over tool-crib items, guard force items, protective clothing and other items issued for use by individuals in the performance of their work under the contract;

(C) Property is of bulk type or by its general nature of packing or handling precludes adequate marking, as may be determined by the property administrator; or

(D) Property is commingled, as authorized by 210 of this section.

(ii) Government-owned special tooling shall be marked with the designation of the Military Department responsible for funding and control of such tooling, as follows: Army—"USA", Navy—"USN", Air Force—"USAF", and Defense Supply Agency—"USD", unless it is determined that such marking will damage the special tooling or is otherwise impracticable. Marking and identification procedures may be expanded by the Department having cognizance over the tooling to include end item reference, drawing number, and such other information as may be desired in a given case. The identification "U.S." property shall not be changed solely to conform to the provisions of this paragraph;

(iii) Unless already marked in accordance with these instructions, all Government-owned plant equipment, including industrial reserve plant equipment, shall be marked by the contractor with a Government identification number, except minor plant equipment, or when the size of the equipment or the nature of the material from which it is made makes it impracticable, in which case such item will be assigned a Government identification number for record purposes, which number shall be shown in the plant equipment property record; or the equipment is accessory or auxiliary and attached to or otherwise a part of an item of plant equipment and is required for its normal operation, in which case such item shall be entered and described on the record of the equipment to which it is attached or of which it is otherwise a part. Once a Government identification number has been affixed to an item of plant equipment, the identification will be permanent and will not be changed so long as the equipment remains under the control of the same Military Department (but see (iv) below). Identification shall be effected by affixing a metal, fibre, plastic, or other plate directly to the equipment; by using indelible ink, acid or electric etch, steel dies, or any other legible, permanent, conspicuous, and tamper-proof method. Identification shall consist of the following markings:

(A) An indication of Government ownership and of the Military Department responsible for funding and control of the plant equipment, as follows: Army—"USA", Navy—"USN", Air Force—"USAF", and Defense Supply Agency—"USD"; however, the identification "U.S." property shall not be

changed solely to conform to the provisions of this paragraph;

(B) A two-part identification number, furnished by the Government, consisting solely of numerals except as provided in (C) below. The first part shall be the property account number, and the second part shall be a serial number. In case plant equipment furnished by the Government is already identified as property of a Military Department, no change shall be made in the markings, except as provided in (iv) below; and

(C) In the case of items included within a standard Departmental registration system, for example, automotive, construction, or weight-handling equipment, application for a proper registration number will be made to the cognizant Department, which number shall be used in lieu of any other identification number.

(iv) Government identification markings shall be removed prior to sale or scrapping. The markings so removed shall be shown on the appropriate documents involved. In the case of a transfer of funding and control responsibilities to other Military Departments new identification markings, in accordance with the requirements of (ii) or (iii) above, may be affixed upon receipt of the equipment by the receiving Military Department.

(b) *Recording Government identification numbers.* Assigned Government property identification numbers will be recorded on all applicable receiving documents, shipping documents, and any other documents pertaining to the property accounts.

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 63-12240; Filed, Nov. 22, 1963;
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 8—COLOR ADDITIVES

Subpart D—Listing of Color Additives for Food Use Exempt From Certification

TAGETES MEAL; CONFIRMATION OF EFFECTIVE DATE

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706(b) (1), (c), 74 Stat. 399, 402; 21 U.S.C. 376(b) (1), (c)), and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (25 F.R. 8625) notice is given that no objections were filed to the order published in the FEDERAL REGISTER of October 5, 1963 (28 F.R. 10749), with reference to the color additive tagetes meal. Accordingly the amendment promulgated by that notice will become effective December 4, 1963.

(Sec. 706(b) (1), (c), 74 Stat. 399, 402; 21 U.S.C. 376(b) (1), (c))

Dated: November 19, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 63-12267; Filed, Nov. 22, 1963;
8:50 a.m.]

relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce
SUBCHAPTER B—EXPORT REGULATIONS
 [9th General Rev., Export Reg.; Amdt. 71]

PART 371—GENERAL LICENSES

Revision of Export Regulations

Section 371.51 Supplement 1: Commodities subject to General License GHK or GLSA is amended by substituting the following entries for entries presently on the list of commodities:

Commodity Description	Schedule B No.	Symbol
Carbon and graphite electrodes for furnace or electrolytic work, except those: (a) with smallest dimension 2 inches or over, or (b) made of pyrolytic graphite.	54730	H
Refractory crucibles, retorts, stoppers, and other carbon and graphite refractories, except those made of pyrolytic graphite.	54805	H
Carbon or graphite products, n.e.c., except: graphite greases and lubricants; spectroscopic carbons; graphite products having smallest dimension of 2 inches or over; and pyrolytic graphite and products.	54809	H

This amendment shall become effective as of November 14, 1963.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487; E.O. 11038, 27 F.R. 7003).

FORREST D. HOCKERSMITH,
 Director, Office of Export Control.

[F.R. Doc. 63-12227; Filed, Nov. 22, 1963; 8:45 a.m.]

[9th General Rev., Export Regs.; Amdt. No. 70]

PART 371—GENERAL LICENSES

PART 385—EXPORTATIONS OF TECHNICAL DATA

Miscellaneous Amendments

1. Section 371.51 Supplement 1: Commodities subject to General License GHK or GLSA is amended by adding to the list the following entries:

Commodity description	Schedule B No.	Symbol
Home-type television receivers, with or without cabinets or tubes.	70815-70819	H
Automobile radio receiver antennas.	70886	H

SUBCHAPTER B—FOOD AND FOOD PRODUCTS
PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Animal Feed or Animal-Feed Supplements

TYLOSIN

The Commissioner of Food and Drugs, having evaluated the petition (FAP 998) submitted by Corn States Laboratories, 1124 Harney Street, Omaha 2, Nebraska, and other relevant material, has concluded that the food additive regulations should be amended to provide for the use

of tylosin for intramuscular injection for specified conditions in swine. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.217 Tylosin is amended by redesignating items (1), (2), (3), and (4) in the table in paragraph (a) as 1, 2, 4, and 5, respectively, and by inserting "3." As amended the table designated "3." As amended the table reads:

Quantity	Limitations	Indications or use
1. In swine feed. Grams per ton	Continuous use, 101 pounds to market weight; as tylosin phosphate. Continuous use, 41-100 pounds animal weight; as tylosin phosphate. Continuous use, up to 40 pounds animal weight; as tylosin phosphate.	Growth promotion and feed efficiency.
2. In swine drinking water. Grams per gallon	Withdraw 48 hours prior to slaughter; administer not more than 10 days; as tylosin base.	Prevention or treatment of swine dysentery (vibriosis).
3. For swine injection. Milligrams per pound of body weight	For intramuscular injection; administer not more than 3 days; withdraw 4 days prior to slaughter; as tylosin base.	Treatment of erysipelas, pneumonia, dysentery (vibriosis), arthritis due to pleuropneumonias-like organisms.
4. In chicken drinking water. Grams per gallon	Withdraw 24 hours prior to slaughter; not to be administered to laying hens; administer not more than 5 days; as tylosin tartrate.	Prevention or treatment of chronic respiratory disease.
5. In turkey drinking water. Grams per gallon	Withdraw 72 hours prior to slaughter; administer not more than 5 days; as tylosin tartrate.	Treatment of infectious sinusitis.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file objections 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 and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the