**DESIGN A/E NOTE - GUIDE SPECIFICATION CONVENTIONS**

**Color-highlighted text**

**Yellow: Editor’s Notes. Comments inserted into the text are addressed to the A/E, not the Contractor. Editor’s Notes are formatted as hidden text. Editor’s Notes are not identified with an update. Do not print Editor’s Notes in issue for distribution to Bidders/Contractors.**

**Tip: To not print Editor’s Notes (hidden text) in document choose Tools on Menu bar, click Options, Print tab, under Include with document, uncheck Hidden text (check to print text), click OK. Save.**

**Tip: To view Editor’s Notes (hidden text) in a document choose Tools on Menu bar, click Options, View tab, under Formatting marks, check Hidden text (uncheck to hide text), click OK. Save.**

**Red: Text updated in 1st quarter. April – June.**

**Strikethrough text and highlighting (not text) in previously issued quarters are deleted. Only 1st quarter highlighted updated text is indicated.**

**Turquoise: Text updated in 2nd quarter. July – September.**

**1st quarter updated text remains highlighted.**

**Pink: Text updated in 3rd quarter. October – December.**

**1st and 2nd quarter updated text remain highlighted.**

**Bright Green: Text updated in 4th quarter. January – March.**

**1st, 2nd and 3rd quarter updated text remains highlighted.**

**Text Editing**

**Select options [in brackets] and edit <notes> before issuing specifications for distribution to Bidders/Contractors.**

**Delete Strikethrough text.**

**Tip: To delete strikethrough text, choose Edit on Menu bar, click Find, Find tab, More (Search Options opens), select All, click Format, Font, check Strikethrough, OK.**

**Click Replace tab, Replace All, OK, Close. Save.**

**Delete all highlighting of text from issue to be distributed to Bidders/Contractors.**

**Tip: To delete highlighting, locate cursor at beginning of Section and block all text in Section, press Shift + Control + End, click No Highlight icon on Formatting toolbar. Save.**

**IMPORTANT: Retain month and year under section title on first page indicating updated Guide Specification Section issue used.**

**Note: This** page **will not print when Hidden text is unchecked as indicated in Editor’s Notes Tip.**

IF THE HIDDEN GUIDE SPECIFICATION CONVENTIONS DO NOT APPEAR PRECEEDING THIS

NOTE, TURN THEM ON AS FOLLOWS.

**FOR MICROSOFT WORD 2000 and 2003**, CLICK ON SHOW/HIDE ICON IN MENU BAR OR CHOOSE

TOOLS IN MENU BAR. THEN CLICK OPTIONS, VIEW TAB, UNDER FORMATTING MARKS, CHECK

HIDDEN TEXT.

**FOR MICROSOFT WORD 2007,** CLICK ON MICROSOFT OFFICE ICON LOCATED IN UPPER LEFT

CORNER OF MENU BAR. CLICK ON WORD OPTIONS AT BOTTOM OF DROP DOWN. THEN CLICK

ON DISPLAY. CHECK THE HIDDEN TEXT BOX.

**FOR MICROSOFT OFFICE 2010,** CLICK ON FILE BUTTON LOCATED IN UPPER LEFT CORNER OF

MENU BAR. IN THE DROP DOWN, CLICK ON OPTIONS, AND A WORD OPTIONS BOX WILL

APPEAR. CLICK ON DISPLAY. CHECK THE HIDDEN TEXT BOX.

THE GUIDE SPECIFICATION CONVENTIONS SHOULD NOW BE VISIBLE IN THE DOCUMENT.

(Delete this note before printing.)

SECTION 01 26 00

CONTRACT MODIFICATION PROCEDURES

(Edited from DeCA June 2022 Design Criteria)

1. GENERAL
   * + 1. SUMMARY
          1. Section Includes:

Modification procedures.

* + - * 1. Related Sections:

Division 01 Section Notice to Proceed.

Division 01 Section Administrative Requirements.

Division 01 Section Construction Progress Documentation.

Division 01 Section Project Web Site.

Division 01 Section Quality Control.

Division 01 Section Temporary Facilities and Controls.

Division 01 Section Closeout Procedures.

Division 01 Section Fiscal Matters and Related Changes

Division 01 Section Phased Construction

* + - 1. SUBMITTALS
         1. Refer to Division 01 Section Administrative Requirements for procedures.
         2. Submittal List:

Reference Submittal Item Quantity Action

1.3 Contract Modification Procedures X R

X Submit quantity specified in Division 01 Section Administrative Requirements.

R Review each submittal, mark to indicate action taken, and return.

I Submittal is for information or record purposes only. No action will be taken.

* + - 1. MODIFICATION PROCEDURES
         1. Definitions:

Modification: A change to a pre-existing contract.

a.. Types of Contract Modifications: *Bilateral and Unilateral* (Ref. FAR 43.103).

1.) *Bilateral* is a supplemental agreement signed by the contractor and the Contracting Officer which reflect agreements of the parties modifying the terms of the contract. Bilateral modifications are the preferred method of changes to the contract.

2.) *Unilateral* is signed only by the Contracting Officer to incorporate administrative changes, issue change orders, make other authorized changes, and issue termination notices. Unilateral modifications may be used when the time required to negotiate a bilateral modification will be detrimental to project schedule.

*Request for Information (RFI)* initiates clarifications and discussions required between the contractor and the government for possible changes to scope that is not identified under the terms of the contract. (Reference Section 013000)

3. *Proposed Modification (PM)* identifies potential changes that may be required to be incorporated into the contract.

4. *Request for Proposal (RFP)* is a formal request from the government to the contractor to provide cost breakdowns (labor, material, and other direct costs) that support PM’s.

5. *Request for Equitable Adjustment (REA)* is a request to settle costs associated with a change order or some other unresolved dispute through negotiations in lieu of a claim.

* + - * 1. Policy for Contract Modifications (Ref. FAR 43.102):

Only Contracting Officers can execute contract modifications on behalf of the Government.

No other personnel are authorized to execute contract modifications, act in a manner to cause the contractor to believe that they have the authority to bind the government, or direct or encourage the contractor to perform work that may result in a contract modification.

* + - * 1. Proposed Modification Processes:

Government-Initiated: The Contracting Officer will issue a detailed description of proposed changes in the work that will require adjustment to the Contract Sum or Contract Time. If necessary, the description will include supplemental or revised Drawings and Specifications. The scope of work (SOW) should be developed by the government representative and reviewed with the contractor. The following process should be followed:

DeCA Contracting (Contracting Officer) will issue a formal Request for Proposal (RFP). However, do not consider the RFP as direction either to accelerate or stop work in progress or to execute the proposed change.

In urgent situations, the Contracting Officer may issue a Notice to Proceed (NTP), which authorizes the contractor to proceed with the work. Included in the NTP will be a Not to Exceed (NTE) amount subject to final negotiations.

The Contractor will provide a fully-supported proposal to the Contracting Officer indicating costs for labor, materials, other direct costs (ODC), and consideration for overhead, profit, and other markup in accordance with a designated suspense date, provided in the Request for Proposal by the Contracting Officer. If suspense date cannot be met, the contractor will provide a request for extension and the rationale for the delay. The Contracting Officer will forward the proposal to Project Management and the Government Authorized Technical Representative for evaluation.

The Government Authorized Technical Representative will evaluate the contractor’s proposal, and provide the Technical Evaluation to Project Management with a recommendation for the Contracting Officer.

Based on the Contracting Officer’s determination, the contractor’s proposal will be accepted as proposed, or negotiated, and incorporated into the contract by modification (either Bilateral or Unilateral).

Contractor-Initiated: When errors or omissions or differing or unforeseen conditions require modifications to the Contract, the Contractor may notify the Government in writing as soon as identified. The notification may take the form of a Request for Information (RFI), submitted in FACTS, to permit the evaluation of the proposed change. Provide a complete description of the proposed change to include a statement outlining the reasons for the change and the effect of the change on the Work to include cost and schedule. Include a detailed cost proposal and the CPM Construction Schedule depicting affected critical path changes. (Reference Spec Section for FRAGNET). On phased projects, provide sub-schedules showing values that correspond to each phase. The Government Authorized Technical Representative will make a recommendation to the DeCA Project Manager and Contracting Officer based on their evaluation. The Contracting Officer upon conferring with the DeCA Project Manager will make the final determination. If the CO’s decision is that a modification is appropriate, the following steps will apply:

DeCA Contracting (Contracting Officer) will issue a formal Request for Proposal (RFP). However, do not consider the RFP as direction either to accelerate or stop work in progress or to execute the proposed change.

In urgent situations, the Contracting Officer may issue a Notice to Proceed (NTP), which authorizes the contractor to proceed with the work. Included in the NTP will be a Not to Exceed (NTE) amount subject to final negotiations.

The Contractor will provide a fully-supported proposal to the Contracting Officer indicating costs for labor, materials, other direct costs (ODC), and consideration for overhead, profit, and other markup in accordance with a designated suspense date. If suspense date cannot be met, the contractor will provide a request for extension and the rationale for the delay. The Contracting Officer will forward the proposal to Project Management and the Government Authorized Technical Representative for evaluation. The Government Authorized Technical Representative will evaluate the contractor’s proposal, and provide the Technical Evaluation to Project Management with a recommendation for the Contracting Officer.

Based on the Contracting Officer’s determination, the contractor’s proposal will be accepted as proposed, or negotiated, and incorporated into the contract by modification (either Bilateral or Unilateral).

* + - * 1. Proposal Preparation:

Include a detailed list of quantities of required products, labor, hours, rates, and unit costs, with the total amount of purchases.

State proposed change in the Contract Sum, if any.

State proposed change in the Contract Time of completion supported by a fragnet.

Clearly describe other changes in the Work, if any, required by the proposed change.

Include full backup data such as subcontractors’ letter of proposal or similar information.

List and include applicable taxes, delivery charges, equipment rental, and amounts of trade discounts.

Comply with paragraphs of this Contract that address substitution.

Within 10 days of receipt of a RFP, or as otherwise designated, on Form 3052 format, submit the proposal of cost necessary to execute the change, including time impact related costs, to the Contracting Officer.

Refer to Division 01 Section Construction Progress Documentation for required schedule related attachments to the proposal.

The Contracting Officer will negotiate maximum mark-ups allowed in proposal cost estimates.

Use the modification numbering sequence established by the Contracting Officer to identify the various proposed modifications and approved modifications.

Instruct any subcontractor to comply with above requirements when the cost proposal includes a quotation from a subcontractor. Review subcontractors’ cost and time proposals for legitimacy and reasonableness. Do not forward any illegitimate or unreasonable proposals to the Contracting Officer.

Upon the Contracting Officer’s approval of a modification proposal, the Contracting Officer will issue a modification for the Contractor’s signature. The Contract Modification will become effective upon execution by the Contracting Officer and Contractor.

* + - * 1. Processing Proposal Requests:

Make written reply to the Contracting Officer in response to each proposal request.

Submit response in single copy and simultaneously e-mail the Contracting Officer, Project Manager and Government Authorized Technical Representative a duplicate PDF version.

* + - * 1. Processing Contract Modifications:

The Contracting Officer will issue the Contract Modification to the Contractor.

Promptly return to the Contracting Officer and electronically transmit a duplicate scanned copy bearing name, title, signature, and date to the Contracting Officer.

The Contract Modification will describe the change or changes, will refer to the proposal requests or supplemental instruction involved, and contain the Contracting Officer’s signature.

1. PRODUCTS (Not Used)
2. EXECUTION (Not Used)

END OF SECTION