

RG 30 RECORDS OF THE BUREAU OF
PUBLIC ROADS

WASHINGTON OFFICE, *Entry 6*
GENERAL CORRESPONDENCE AND
RELATED RECORDS, 1912-65.

1955-1959

ALASKA FOREST HWYS 1959 PART 1 OF 2
THRU
ALASKA INTERSTATE HWYS 15-16 1957-59

BOX NO.
1131

HM 1991

1955-59

Alaska - Forest Hwy's 1-6

6036 + Legal

FORM CD-14 (10-27-53)	DEPARTMENT OF COMMERCE	DATE <i>7-27-56</i>
TRANSMITTAL SLIP?		7-27-56
TO: Henry J. Kaltenbach Solicitor, Washington D. C.		REF. NO. (If any)
FROM: Division 8, Portland, Ore.		REF. NO. (If any)
ACTION		
<input type="checkbox"/> NOTE AND FILE	<input type="checkbox"/> PREPARE REPLY FOR MY SIGNATURE	
<input type="checkbox"/> NOTE AND RETURN TO ME	<input type="checkbox"/> TAKE APPROPRIATE ACTION	
<input type="checkbox"/> RETURN WITH MORE DETAILS	<input type="checkbox"/> PER YOUR REQUEST	
<input type="checkbox"/> NOTE AND SEE ME ABOUT THIS	<input type="checkbox"/> SIGNATURE	
<input type="checkbox"/> PLEASE ANSWER	<input type="checkbox"/> FOR YOUR INFORMATION	
<input checked="" type="checkbox"/> FOR YOUR APPROVAL	<input type="checkbox"/> INVESTIGATE AND REPORT	
<input type="checkbox"/> PER OUR CONVERSATION		
COMMENTS:		
<p>Agreement for assistance in the approval of projects in Tongass National Forest-Alaska.</p> <p>Funds available pending receipt of funds as per Standard Form 1151 dated 7-18-56 - No. 57 - 17.</p>		

COMM-DC-3822

MBC

This was discussed with Mr. Booth and he is of the opinion that we should have a formal agreement approved by W. O. The agreement may be for each project or a single agreement for the combined work

ONE

Alaska Forest Hwy 1
F.H. Alaska 2-0
Forest Hwy 7

Mr. E. H. Swick, Regional Engineer
 Juneau, Alaska

December 26, 1957

Paul F. Royster, Assistant Commissioner
 Washington 25, D. C. Paul F. Royster

Forest Highway Cooperative Agreements - Alaska

Reference is made to your memorandum of December 13, 1957 in which you request clarification of the Cooperative Agreement procedure for Forest highway projects.

Paragraph 1a of PPM 25-5 states under what conditions a Forest highway project may be advanced to construction. One of the prerequisites is that the project be covered by a fully executed agreement between Public Roads and the cooperator.

The regional engineers have not been delegated authority to execute cooperative agreements, as distinguished from project agreements. Basically a project agreement, Form PR-2, is to cover the arrangement between the Bureau and a State for the construction of a particular project under a program approved by Public Roads (Reference AM 1-10, and AM 1-10.3). A cooperative agreement is greater in scope than a project agreement. It can cover a Forest highway system in a State, a Forest highway route, or a Forest highway project. Our past practice in the West was to prepare cooperative agreements on a route basis, i.e., written to cover the initial project, but flexible enough to cover all future projects that, from time to time, might be programmed for improvement under direct Bureau supervision. We have now replaced this procedure with a Statewide cooperative agreement policy for Forest highways in the western States whereby the Bureau and State enter into general terms of agreement covering financing, right-of-way acquisition, construction and maintenance. Variations from this basic agreement for particular projects will be handled by a new Form PR-2-7H which, as yet, has not been fully developed. We have this latter type of procedure in mind for Forest highway work in Alaska, and will advise you in the near future. In the interval, we are attempting to assist you in prosecuting the work there with a minimum of procedural requirements. Waiving of R-O-W and maintenance provisions in the Alaska work has been done in certain cases such as Project 2-0. However, if the Territory was to secure right of way and maintain the project on completion, then these provisions would also have to be set forth in the cooperative agreement. In the present Project 2-0 case it was only necessary to set forth the manner in which the already deposited cooperative funds were to be expended.

As previously stated, prior to award action it is necessary that the project be covered by a fully executed agreement between the Bureau

and the cooperator. If preparation of the agreement is withheld until bid prices are known it could entail a delay in making the award inasmuch as the agreement document is for Washington office approval.

With respect to Alaska Forest Highway Project 2-0, the agreement has been reviewed by the General Counsel and the following comments are offered for your consideration.

Although this agreement has been approved, it is believed that it would have been preferable to have had the opening paragraph read as follows:

This cooperative agreement between the Bureau of Public Roads, United States Department of Commerce, hereinafter called 'Public Roads,' and the Alaska Highway and Public Works Department, Territory of Alaska, hereinafter called the 'Cooperator,' witnesseth that:

It is also believed that it would have been preferable to have had Section 2 of the "NOW, THEREFORE," paragraph read:

Any balance of the cost of the project will be financed by Forest Highway funds.

As it is now stated, this instrument has the appearance of obligating Public Roads to the expenditure of a definite sum of Federal money and to complete the project. While it is true that Public Roads intends to complete the project even if it may require additional Federal funds, such fact, however, should not be made a part of this agreement. Instead it would be a matter of administrative determination as the circumstances may warrant.

The original and one signed copy of the agreement are enclosed. The original should be retained in your office for site audit purposes and the signed copy sent to the Alaska Highway and Public Works department.

Attachments

TLHask^g11:mjd ✓
cc - Files (2) ✓
Federal Hwy. Projs. Div.
Mr. Royster - Room 6019

12-27-59

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. F. E. Andrews, Division Engineer
Portland 8, Oregon

DATE: July 9, 1956

FROM : A. C. Clark, Deputy Commissioner
Washington 25, D. C.

SUBJECT:

Reference is made to the joint field letter dated ^{att.} June 22 in which the Alaska Road Commission requests our assistance in the construction of approximately 4.7 miles of road in the Tongass National Forest at an estimated cost of \$80,000.

We presume that the purpose of this letter is to indicate your willingness to undertake the work as requested and that a formal agreement will be prepared and forwarded to the Washington office for execution before funds are obligated, in accordance with paragraph 11a of Administrative Memorandum 1-10, Delegation of Authority. A single agreement covering all projects will suffice.

not necessary to send this now

Form CD-14 (10-15-46)	DEPARTMENT OF COMMERCE	DATE
TRANSMITTAL SLIP		7-5-56
To: Mr. D. Enrich Rm. 6029	REF. NO. (If any)	
FROM: S. K. Booth	REF. NO. (If any)	
ACTION		
<input type="checkbox"/> NOTE AND FILE	<input type="checkbox"/> PREPARE REPLY FOR MY SIGNATURE	
<input type="checkbox"/> NOTE AND RETURN TO ME	<input type="checkbox"/> TAKE APPROPRIATE ACTION	
<input type="checkbox"/> RETURN WITH MORE DETAILS	<input type="checkbox"/> PER YOUR REQUEST	
<input type="checkbox"/> NOTE AND SEE ME ABOUT THIS	<input type="checkbox"/> SIGNATURE	
<input type="checkbox"/> PLEASE ANSWER	<input type="checkbox"/> FOR YOUR INFORMATION	
<input type="checkbox"/> FOR YOUR APPROVAL	<input type="checkbox"/> INVESTIGATE AND REPORT	
COMMENTS:		
<i>See Agreement dated July 23, 1956</i>		

A2.49

Comm-DC 5847

C
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UNITED STATES
DEPARTMENT OF THE INTERIOR
Alaska Road Commission
P. O. Box 1961
Juneau, Alaska

June 22, 1956

JOINT FIELD LETTER (BPR)

Mr. F. E. Andrews
Division Engineer
Bureau of Public Roads
P. O. Box 3900
Portland 8, Oregon

Dear Mr. Andrews:

Conforming to the policy established for the improvement of Minor Roads in the region, your assistance is requested in the improvement of:

<u>Forest</u>	<u>Road Name</u>	<u>Location</u>	<u>Length</u>	<u>Est. Cost</u>
Tongass	Roosevelt Drive	Near Ketchikan	1.4	\$46,000.00
Tongass	Wood Road	Near Ketchikan	0.5	20,000.00
Tongass	Sandy Beach	Near Petersburg	2.2	10,000.00
Tongass	Point Stephens	Near Juneau	0.6	4,000.00
			<u>4.7</u>	<u>\$80,000.00</u>

Your concurrence will be appreciated.

Very truly yours,

/s/ A. F. Ghiglione

A. F. Ghiglione
Director

I concur:

/s/ F. E. Andrews
F. E. Andrews, Division Engineer
Bureau of Public Roads

*See Agreement
dated July 23, 1956*

COPY

COPY

UNITED STATES
DEPARTMENT OF THE INTERIOR
Alaska Road Commission
P. O. Box 1961
Juneau, Alaska

June 22, 1956

JOINT FIELD LETTER (NPR)

Mr. F. E. Andrews
Division Engineer
Bureau of Public Roads
P. O. Box 3900
Portland 8, Oregon

Dear Mr. Andrews:

Conforming to the policy established for the improvement of Minor Roads in the region, your assistance is requested in the improvement of:

<u>Forest</u>	<u>Road Name</u>	<u>Location</u>	<u>Length</u>	<u>Est. Cost</u>
Tongass	Roosevelt Drive	Near Ketchikan	1.4	\$46,000.00
Tongass	Wood Road	Near Ketchikan	0.5	20,000.00
Tongass	Sandy Beach	Near Petersburg	2.2	10,000.00
Tongass	Point Stephens	Near Juneau	0.6	4,000.00
				<u>\$80,000.00</u>

Your concurrence will be appreciated.

Very truly yours,

/s/ A. F. Ghiglione

A. F. Ghiglione
Director

I concur:

/s/ F. E. Andrews
F. E. Andrews, Division Engineer
Bureau of Public Roads

9001 - 5 JUL 1956

see Agreement
dated July 23, 1956

File

(Alaska) Forest Hump - 1
3/9/56

Mr. P.
Div. I
H. J. Ka

Although the original and first supplemental agreements were executed without authority by the District Engineer, it is considered that the execution of this supplemental agreement by the Solicitor, for the Commissioner, validates, by approval thereof, the prior agreements.

Attached are two executed copies of Supplemental Agreement No. 2 for performance of design work for the Forest Service in Alaska.

This Supplemental Agreement has been executed as submitted. It is considered that this execution validates the original agreement and the first supplemental agreement, although both such agreements should have been submitted to this office. Please submit copies of the original and first supplemental agreements.

TEF/hs

CC - Engineering
Legal
Files ✓

3-12-56

3/9/56

Mr. F. E. Andrews
Div. Eng., Div. 8

H. J. Kaltenbach, Solicitor

HENRY J. KALTENBACH,

x

Attached are two executed copies of Supplemental Agreement No. 2 for performance of design work for the Forest Service in Alaska.

This Supplemental Agreement has been executed as submitted. It is considered that this execution validates the original agreement and the first supplemental agreement, although both such agreements should have been submitted to this office. Please submit copies of the original and first supplemental agreements.

TEF/hs

CC - Engineering
Legal
Files ✓

3-12-56

1. DATE OF RECORD 9/28/55
 2. CLASSIFICATION
 3. TO Interior, N.P.S. (Wright)
 4. FROM C.W. Phillips (30-03)
 5. SUMMARY appeal recommended to Justice Dept in favor of Southern Bell Telephone + Telegraph Co. etc. att: memo 5/26 fr. Kattenbach to McWhorter + ccltr 5/20 fr. Interior to Justice. ccltr 5/6 fr. Fritz, Robinson to Atty Gen. etc.
 6. CHARGED TO Legal
 7. DATE CHARGED OUT 10/3/55

1. DATE OF RECORD 9/12/55
 2. CLASSIFICATION (Alaska) Forest Hwy - 1.
 3. TO Andrews -
 4. FROM Kattenbach (30-02 HEC)
 5. SUMMARY Agreement with Alaska Territorial Bd of Land Comm for maintenance of certain roads in Alaska etc. att copy draft.
 6. CHARGED TO Seals
 7. DATE CHARGED OUT 12/21/55

FORM PR-852
(4-18-55)

U.S. DEPARTMENT OF COMMERCE
BUREAU OF PUBLIC ROADS

CORRESPONDENCE CHARGE-OUT FORM

PLACE IN UPRIGHT POSITION IN FOLDER

PLACE IN UPRIGHT POSITION IN FOLDER

7. DATE CHARGED OUT	10/3/55
6. CHARGED TO	Seals
5. SUMMARY	As your memo 1/19/55 regarding distribution - Note to proceed etc.
4. FROM	Bank (C-2-2. Smith)
3. TO	Andrews -
2. CLASSIFICATION	1785 Div 8.
1. DATE OF RECORD	1/25/55

COMM-DC 32918

1. DATE OF RECORD Owens & Co. 7/15/55	1. DATE OF RECORD 8/11/55
2. CLASSIFICATION Wep - 7-A-3-A16, 6-A1, B1, C1, D1	2. CLASSIFICATION Natl Rk Hump 16
3. TO Curtis	3. TO Shelman
4. FROM Chamberlain	4. FROM Allen (Frank)
5. SUMMARY advertisement of bids att: notice of call for bids dtd 6/27/55 (names) & sealed bids -	5. SUMMARY copy ltr fr N.P.S. to Commission re procedure for submitter's Vouchers to Regional office for payments etc
6. CHARGED TO Leeds	6. CHARGED TO Cook (5040)
7. DATE CHARGED OUT 8/2/55	7. DATE CHARGED OUT 9/1/55

PLACE IN UPRIGHT POSITION IN FOLDER

FORM PR-852
(4-18-55)

U.S. DEPARTMENT OF COMMERCE
BUREAU OF PUBLIC ROADS

CORRESPONDENCE CHARGE-OUT FORM

1. DATE OF RECORD 5/19/51 (orig)	1. DATE OF RECORD 6/10/51
2. CLASSIFICATION 485 Va. Conf. Hwy 2-221	2. CLASSIFICATION No. - Conts #14-10-0100-464 Rec. Conts Be. xxx attention called to classes 6 - "Disputes" to be submitted for future Conts.
3. TO Clark	3. TO Clark
4. FROM Vint & Stearns, N.P.S.	4. FROM Vint & Stearns, N.P.S.
5. SUMMARY cont. agreement Aug 27	5. SUMMARY (no attmpts)
6. CHARGED TO Kaltenbach	6. CHARGED TO Mrs. Kaper
7. DATE CHARGED OUT 5/19/51	7. DATE CHARGED OUT 6/29/51

COMM-DC 32918

30-02

BUREAU OF PUBLIC ROADS

(Alaska) 7 H- 2
x (Alaska) 7 H-
1 Const 13-1-1

May 29, 1956

Mr. F. E. Andrews, Division Engineer
Portland 8, Oregon

Henry J. Kaltenbach, Solicitor
Washington, D. C.

HENRY J. KALTENBACH

Construction Contracts (Standard Form 23A)

This will acknowledge your memorandum of ^{att} May 4 and the attached copy of a letter from Mr. Eben H. Lewis, Attorney-Adviser, to Mr. A. F. Ghiglione, Director of the Alaska Road Commission. *att dated 4/2/56.*

Note is taken of Mr. Lewis' comments regarding Article 4.2(a) of FP-41. We have previously recognized that a strict interpretation of this clause would indicate some variance from the provision in old Standard Form 23 and new Standard Form 23A relating to subsurface or latent conditions. However, it has caused no particular problem, and on the several occasions when any question arose the matter was handled within the general framework of the provisions of Standard Forms 23 and 23A.

In the redrafting of the Public Roads' standard specifications, the language in previous Article 4.2 has been eliminated and certain other changes were made in this section to accomplish the desired results. Answering the last sentence of your memorandum, no change is considered necessary in the current contract assemblies and Special Provisions relating to this point.

HEC
HEC:mb

cc: Division of Engineering
Legal
Files ✓

JK
5/3/56

FORM CD-14 (10-27-53)		DEPARTMENT OF COMMERCE	DATE 5/9.
TRANSMITTAL SLIP			
TO: <i>A.E. Cunningham</i>		REF. NO. (If any)	
FROM: <i>BMW.</i>		REF. NO. (If any)	
ACTION			
<input type="checkbox"/> NOTE AND FILE	<input type="checkbox"/> PREPARE REPLY FOR MY SIGNATURE		
<input type="checkbox"/> NOTE AND RETURN TO ME	<input type="checkbox"/> TAKE APPROPRIATE ACTION		
<input type="checkbox"/> RETURN WITH MORE DETAILS	<input type="checkbox"/> PER YOUR REQUEST		
<input type="checkbox"/> NOTE AND SEE ME ABOUT THIS	<input type="checkbox"/> SIGNATURE		
<input type="checkbox"/> PLEASE ANSWER	<input checked="" type="checkbox"/> FOR YOUR INFORMATION		
<input type="checkbox"/> FOR YOUR APPROVAL	<input type="checkbox"/> INVESTIGATE AND REPORT		
<input type="checkbox"/> PER OUR CONVERSATION			
COMMENTS: <i>Any comments? -</i>			

COMM-DC-3822

Office Memorandum • UNITED STATES GOVERNMENT

Mr. Clark

TO : Mr. Henry J. Kaltenbach, Solicitor
Washington, D. C.

DATE: May 4, 1956

FROM : *[Signature]* H. A. Andrews, Division Engineer
Portland, Oregon

2/10/56 *[Signature]*
HEC-Legal

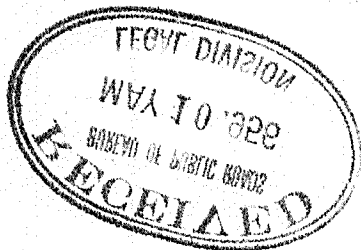
SUBJECT: Construction Contracts (Standard Form 23A)

Enclosed herewith is a copy of District Engineer Wyller's memorandum of May 2 together with enclosure for your information and comments.

The Mr. DeLaHunt referred to is assistant to the chief engineer of the Alaska Road Commission and Mr. Baxter is also an engineer in the employ of the Alaska Road Commission.

Unless advised to the contrary, no change will be made in our current practice regarding contract assemblies and special provisions.

Encl.



[Signature]
5/8/56

08-49

BUREAU OF PUBLIC ROADS

C
OPY

Mr. F. E. Andrews, Division Engineer
Portland, Oregon

May 2, 1956

Chr. F. Wyller, District Engineer
Juneau, Alaska /s/ RK

There is attached copy of April 2, 1956 letter from Eben H. Lewis, attorney advisor, Department of the Interior to Mr. A. F. Ghiglione, Director, Alaska Road Commission, in regard to Interpretative provisions in Specifications FP-41 of Articles 3 and 4, Standard Form 23A, General Provisions (Construction Contracts).

Please note that on the basis of Mr. Lewis' interpretation that the Alaska Road Commission is deleting all of Article 4.2 in the Special Provisions, as it now appears on page W9-2.

The attached letter is being sent you as informational and for any further consideration which you might believe is warranted.

Att.

C
O
P
Y

Alaska Road Commission - Juneau, Alaska

A. F. Ghiglione, Director

April 2, 1956

Eben H. Lewis, Attorney-Adviser

Interpretative provisions in specifications FP-41 of Articles 3 and 4, Standard Form 23a, General Provisions (Construction Contracts)

The request has been made by the contracts branch of your agency that I furnish information concerning the applicability of interpretative provisions in specifications FP-41 to Articles 3 and 4, "Changes" and "Changed Conditions", respectively, in Standard Form 23a, the uniform general provisions for federal construction contracts. A development of the historical basis for the use of standard forms is pertinent to this inquiry. Underscoring, where it appears, has been added.

The employment of the old Standard Form 23 (Revised April 3, 1942) was pursuant to rules and regulations of the Treasury Department, promulgated under Executive Order No. 6166 of June 10, 1933, (5 U.S.C. Sec. 132 note). By Section 102 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 380; 5 U.S.C.A. 630a) the functions, personnel and pertinent records of the Bureau of Federal Supply of the Treasury Department were transferred to the General Services Administration which was established by Section 101 of that Act (5 U.S.C.A. 630). The employment of the 1942 Form 23 was required by Title 44 C.F.R. Section 54.1(c)(1) and continued until revised by General Regulation No. 13, dated March 19, 1953, issued pursuant to the Federal Property and Administrative Services Act of 1949 (Public Law 152, 81st Congress) under authority of Executive Order 6166, of June 10, 1933 to which reference was made above.

As stated in Section 4 of General Regulation 13 the use of the Standard Forms (including the new 23a) is mandatory except in certain instances not applicable to this discussion. The new Article 3 of 23a eliminated the requirement that changes in excess of \$500 must be approved in writing by the head of the department or his duly authorized representative, and increased from 10 to 30 days the time in which the claim for adjustments under the clause must be asserted. The new Article 4 "Changed Conditions" imposes upon the contractor the burden of notifying the contracting office in writing of (1) "subsurface or latent physical conditions at the site differing materially from those indicated in (the) contract, or (2) unknown physical conditions at the site of an unusual nature differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in (the) contract." In the old Article 4 the difference in subsurface and/or latent conditions is regarded as being from those "shown on the drawings or indicated in the specifications" and the unusual or unknown conditions as those "differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the plans and specifications."

The contracting officer could modify the contract with the approval of the head of the department, et cetera, "to provide for any increase or decrease of cost and/or difference in time resulting from such conditions." The new Article 4 permits the contracting officer to make an "equitable adjustment" if "he finds that such conditions do so materially differ and cause an increase or decrease in the cost of, or the time required for, performance of the contract with a modification in writing of the contract.

Alaska Road Commission contracts contain in the Special Provision section, Part 1, a provision that "specifications FP-41 are adopted as general specifications to govern this contract", subject to the modifications set forth in Part II of the special provisions. The construction contract (Standard Form 23) as executed between the parties in the Alaska Road Commission contracts, under "Statement of Work" provides "the contractor shall furnish all labor, equipment and materials and perform the work above described for the amount stated above in strict accordance with the general provisions (Standard Form 23a), specifications, schedules, drawings, and conditions all of which are made a part hereof and designated as follows:

Special Provisions for the above-named project
Specifications FP-41, Public Roads Administration, Revised
July 15, 1941.
Drawings for the Project consisting of 61 sheets."

The question with which we are confronted is: to what extent may the contracting office incorporate in the contract specifications which are, or may be, in conflict with the provisions of Standard Form 23a, General Provisions? 7

As hitherto outlined, General Regulations No. 13 of March 19, 1953, was issued by the General Services Administration pursuant to subsisting authority, conferred by Congress and as such prima facie has the force of statutory law. Section 5 of the regulation states, under Terms, Conditions and Provisions: "Additional terms, conditions and provisions considered by any agency to be essential to its contractual relationships and not inconsistent with those contained in the forms may be incorporated in Invitations in which these forms are used by so providing an Addendum to the forms, in the "alterations" paragraph of Standard Form 23, or in the specifications, as may be appropriate...". Item b of Section 5 "Inconsistent Terms, Conditions and Provisions: Terms, conditions and provisions which are inconsistent with those of the foregoing forms may not be used unless authorized by the head of the federal agency". Section 6 of the regulation provides that the old Standard Form 23 Construction Contract, is superseded.

Mr. Baxter's memorandum of March 28 to Mr. DeLaHunt contains a number of references to Articles in FP-41 which are interpretative of the old Form 23 Construction Contract. Mr. Baxter's concluding paragraph states in relation to his citations from FP-41 "it is my contention that all of the above constitutes a completely legal interpretation of the provisions of Articles 3 and 4 of Standard Form 23 (now 23a), and we are bound to follow these instructions in FP-41 when considering claims presented by contractors on roe

road construction." I will concur with Mr. Baxter to the extent that, where such specifications are merely explanatory of identical provisions in the old and new forms, they furnish a guide in construing the intent of the contracting parties. However, if the new Form 23a is in any manner in conflict with any provision in FP-41 either as to procedure relating to payment to the contractor, or in delineating the work to be performed, the new Form 23a must be held to supersede the FP-41 provision. To quote from the syllabus in Moorman vs United States, 1949, 82 F. Supp. 1010, "the Standard Government contract, duly prepared and approved by proper authority of the Government, is binding upon the writer of specifications covering a specific project, and such contract provisions control unless they are modified or changed by the proper provision, approved by proper authority, inserted in the Article of the contract provided for that purpose. The fact that the specifications, which are intended to delineate the work to be done and the procedures to be followed, are made a part of the Standard Government contract (by reference in "statement of work",) does not warrant the conclusion that they override an express provision of the contract."

As it was held in the case of Pfotzer vs United States, 1948, 77 F. Supp. 390, "the provisions of the standard form of construction contract and the policies stated therein are paramount to the specifications and govern in case of inconsistency or conflict."

These cases are grounded upon two principles of law: (1) that the interests of the Government are best served by adoption of a uniform contract procedure which denies to contracting officers, without specific authority, the prerogative of inserting conflicting specifications to those adopted by the supervising authority over Government contracts, in this case the General Services Administration. And (2), that every contract must be read as a whole, and the limiting provisions of the specifications must be read in the light of the "changes" and "changed conditions" articles of the standard form Government construction contract so that effect will be given to all the provisions of the contract. Appeal of Carson Construction Co., IBCA-12, 1955. The Board of Contract Appeals, in its decision in that case cited Loftis vs United States, 110 Ct. Cl. 551 (1948), as follows: "The purpose of specifications and drawings is to supplement the formal contract by delineating the details of the work to be performed thereunder and not to void an expressed provision written into the contract...". Even if there should be a conflict between the language of (the specifications) and the provisions of Article 4 of the contract, the latter would prevail.

The General Services Administration, therefore, having seen fit to revise the wording of Articles 3 and 4, and require the use of such revised articles by promulgation of a regulation pursuant to proper authority, has in effect made inapplicable any provisions in FP-41 which are inconsistent. Since Article 4.2(a) is restrictive of the interpretation to be given the new Article 4 in Standard Form 23a, it is unenforceable, and should be deleted by reference, in the special provisions in future contracts. Articles 4.3, 9.3 and 9.4 contain both substantive and procedural provisions which do not appear to be inconsistent with the new prescribed forms and may be retained unless it later develops that factual inconsistencies do exist.

/s/

Eben H. Lewis
Attorney-Adviser

CROSS REFERENCE

File No. (ALASKA) FOREST HWYS 6

Date 8/13/56

FROM : CLARK (40-00)

TO : R. E. McARDLE, Chf. Forest Service, Agriculture.

SUBJECT:

A special committee of this office has made a review of the existing policies & practices with respect to the acquisition of right-of-way for Forest hwy. projects & the maintenance of completed projects. The findings & recommendations of the committee are stated below:

3. ALASKA - All maintenance has been performed by Public Roads & paid for from Forest hwy. funds.

c. Recommendation-Although maintenance costs are eligible for payment from Forest hwy. funds, it is recommended that in all States & Puerto Rico the maintenance obligation be assumed by the cooperator immediately upon completion of construction of any improvement & that all costs thereof be borne by the cooperator. This would be accomplished in the Western States as soon as satisfactory disposition can be made of present maintenance forces, equipment & facilities. In Alaska the maintenance of Forest hwy. projects would be continued by Public Roads & paid for from Forest hwy. funds until such time as the Territory is ready to take over part or all of the maintenance obligation".

etc

See File No. FOREST HWYS. 7

BUREAU OF PUBLIC ROADS

BUREAU OF PUBLIC ROADS

*Alaska FH 9*10-00 Mr. W. J. Niemi, Regional Engineer
Juneau, Alaska

July 21, 1959

23-10 Paul F. Royster, Assistant Commissioner Paul F. Royster
Washington 25, D. C.Annual Report, Bureau of Public Roads -
Fiscal Year 1959

Receipt is acknowledged of your July 15 memorandum in reply to our request of July 2 for data to be considered in the preparation of the subject report.

The information received is quite satisfactory, however, the statistical data relative to Federal-aid construction and the forest highway system mileage requested July 2 by reference to our June 30, 1958 memorandum was not submitted. We shall appreciate your prompt submission of these data to complete the report from Region 10. In the event our June 30, 1958 memorandum may have been misfiled, we have attached another copy and also a copy of your reply of July 11, 1958 for your reference use and guidance in order that the preparation of the supplemental report may be expedited.

Your memorandum of July 15 advises of having also received a request from Mr. Stromberg under date of June 9 for material in connection with this same annual report. Undoubtedly you have just received his memorandum of July 20 in this regard relative to the routing of material to be submitted. In order to avoid confusion, this subject has been discussed with Mr. Stromberg. As his two memorandums were sent because of a misunderstanding of our responsibilities on Federal-aid construction work in Alaska, Mr. Stromberg has asked that we advise you to disregard his memoranda on this subject.

Attachments (2)

CAF
CALewis:bj
cc: Files (2)
Federal Highway Projects Division
Mr. E. A. Stromberg - Room 1001
Mr. Royster - Room 814

FILES

BUREAU OF PUBLIC ROADS

Alaska Forest Hwy 9

Mr. W. J. Niemi, Regional Engineer
Juneau, Alaska

July 2, 1959

23-10 Paul F. Royster, Assistant Commissioner
Washington 25, D. C.

Paul F. Royster

Annual Report, Bureau of Public Roads - Fiscal Year 1959

Reference is made to our memorandum of June 30, 1958 to Mr. Swick requesting information for use in the 1958 report "Bureau of Public Roads." This is to serve as a reminder that corresponding statistical data are required for our use in a similar report for fiscal year 1959.

A brief narrative description of one or two projects completed (or under construction) which may be considered as highlights of construction during the year, will also be appreciated.

It is desired that the above requested information be received here not later than July 15.

164
WT
CALewis/tb
cc: Files (2)
Federal Hwy. Projs. Div.
Mr. Royster - Room 814

7-6-59

BUREAU OF PUBLIC ROADS

Alaska FAH 14

Mr. W. J. Niemi, Regional Engineer
Juneau, Alaska

May 29, 1959

23-10

Paul F. Royster, Assistant Commissioner
Washington 25, D. C. Paul F. Royster

Federal-aid Programs for Alaska

Following an exchange of correspondence with Mr. Swick in January 1958, we made an arrangement with the Office of Engineering whereby that office would furnish us copies of approved programs for Alaska Federal-aid projects. The data we receive are quick copies which are frequently found to be illegible.

To help this situation in the case of future program submissions please forward an extra copy of each PR 1. This extra copy should be properly marked for routing directly to this office. Extra copies of maps which you prepare to support Form PR-1 are not required. Program revision information reported by Form PR-37 will be secured by us from the Program Analysis Division.

Your cooperation in furnishing the above information will be greatly appreciated.

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cc - Files (2) ✓
Federal Hwy. Projs. Div.
Mr. Royster - Room 814