

CHAPTER 14. LABOR RELATIONS

14.1 General. In view of the unique administrative role of the Resident Engineer, the uniqueness of the CSDP, and the type of contract used for CDSP, it is imperative that the Resident Engineer's role in establishing an active and effective Labor Relations Program be clearly defined and established. Chapter 1 identified the organizational relations for the program. The primary responsibility of the Resident Engineer is the enforcement of construction labor standards for Phases II, III, and IV of the Systems Contract. The Resident Engineer's primary guidance is as outlined in ER 1180-1-8, *Contracts Labor Relations*, dated 30 December 1994, guidance received from the Center Labor Advisor, and the specific instructions of this section.

14.2 Organization.

a. Under provisions of the Systems Contract, the contractor is responsible for establishing program procedures for personnel management and industrial relations. Once accepted and approved by the PCO, the SC will establish a labor relations program, which will insure compliance with all Federal Labor Standards applicable to this contract. Additionally, the SC is responsible for establishing acceptable procedures for all labor and personnel matters relating to all contract phases. The contract requirements for worker access (clearances, badging, transportation, and security) are very restrictive and more complex than normal construction requirements. The Resident Engineer is not responsible nor required to enforce these contractual and internal SC procedures. However, the Resident Engineer may participate, if the PCO desires, in the administration of the program as related to the construction phases.

b. Pursuant to the authority delegated by the PCO and pursuant to the Memorandum of Agreement with IOC, the Resident Engineer is primarily responsible for the enforcement of all construction labor standards applicable to this contract.

14.3 Responsibilities.

a. The Systems Contractor has the contractual responsibility to manage the Industrial Relations Program and act as the primary point of contact during the construction phases. This responsibility includes ensuring that all tiers of subcontractors comply with the applicable requirements of the contract for both the services and the construction phases. The Davis-Bacon Act is the primary law applicable to the construction phases and the McNamara-O'Hara Service Contract Act is the primary law applicable to services. The PCO administers the non-construction requirements; the Resident Engineer advises and, within his delegated authority, administers the construction phases.

b. The Resident Engineer's delegated authority is as provided in FAR 42.302(a)(54). Duties include: Monitor Contractor Industrial Labor Relations matters under the contract; apprise the Contracting Officer and, if designated by the Agency, the Cognizant Labor Relations Advisor, of actual or potential labor disputes; and coordinate the removal of urgently required material from the Strike Bound Contractor's Plant upon instruction from and authorization of the Contracting Officer.

c. ER 1180-1-8 and EP 415-1-260 provides insight and general guidance for Resident Engineer responsibilities and is not repeated in this section except to either clarify or supplement the guidance.

Except, as specifically authorized by the Director, Chemical Demilitarization Construction Directorate, all questions or concerns related to the Resident Engineer's responsibilities will be submitted to the Directorate. Direct contact or notice to the PCO may be authorized for unique problems. The Huntsville Center Labor Relations Advisor is the Office of Counsel. The Resident Engineer will develop enforcement and reporting procedures, in accordance with ER 1180-1-8, and as follows for these specific actions:

(1) Pre-construction Conference. In coordination and cooperation with the PCO, the Resident Engineer will discuss the contract requirements for labor compliance. It is important at this time to discuss the contractor's proposed method of construction to disclose situations and conditions, which were not anticipated. This is particularly applicable to the existing wage classifications. If new classifications are necessary, requirements should be identified. A guide for discussions is in appendix I, ER 1180-1-8, Pre-construction Conference Checklist. The Huntsville Center Labor Advisor will attend the Pre-construction Conference.

(2) Prime Contractor Payrolls. The Resident Engineer is responsible for ensuring that the Systems Contractor submits payrolls in a timely manner. It is emphasized that the prime contractor is more than a mere conduit for transmission of payrolls. The Systems Contractor is obliged to ensure that all required information on such payrolls is furnished prior to submission. The Resident Engineer will maintain the Payroll Records, ENG Form 3180, at the Resident Office. When the construction is complete, the records will be transferred to the PCO and coordinated with the final construction payment. Exhibit 14*1 provides general payroll guidelines, with samples, which may be provided to the contractor.

(3) Employee Interviews. The Resident Engineer is responsible for establishing a procedure for QA representatives to conduct labor standard interviews. These interviews are essential in detecting employee misclassification or other common violations. Use SF Form 1445, Labor Standards Interview, together with the Privacy Act Statement to report interviews. Frequency, use, and filing of the form will follow instructions of ER 1180-1-8.

(4) Wage Rate/Regulation Posting. The Systems Contractor is required, by contract provisions, to post a copy of applicable wage rates and other labor notices. The Resident Engineer will ensure that the Labor Relations Plan includes this requirement. Location and posting of the applicable materials will follow guidance of ER 1180-1-8. The Resident Engineer will periodically inspect the bulletin boards to ensure compliance with these requirements.

(5) Notice of Award to Subcontractors. The SC will notify the Resident Engineer within 14 days after the award of any subcontract made by the SC or a lower tier subcontractor and to provide the name and address of the new subcontractor(s) and a summary of the work subcontracted. At the same time, the SC will furnish a statement signed by the subcontractor acknowledging the inclusion in his subcontract of applicable labor clauses. Standard Form 1413, Statement and Acknowledgment must be executed and submitted to the Resident Engineer in duplicate (both copies signed). The original copy will be filed in the contract file and a duplicate signed copy furnished to the Center Labor Advisor. Reproduced copies, as necessary, should be furnished to the CAB for contract administration purposes.

(6) Labor Disputes, Work Stoppages, Activities, and Complaints of Labor Representatives. The Systems Contractor will handle labor difficulties and work stoppages. As provided in the contract

provision's clause entitled, "*Notice to the Government of Labor Disputes*," whenever the System Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the contract schedule, the contractor will immediately notify the Contracting Officer. In the CSDP, notices for Phases II, III, and IV will be submitted to the Resident Engineer. The Resident Engineer will make initial reports to the Center Labor Advisor by telephone or facsimile. The report will contain the information available at the time and in the order identified on DD Form 1507, Work Stoppage Report. Initial reports, forwarded by telephone, will be confirmed as soon as possible by submitting DD Form 1507 in duplicate to the Labor Advisor. The RE will make follow-up reports on significant changes not less than weekly until the dispute is resolved. The RE will send, within five days after the end of the work stoppage a final report, in duplicate.

(7) **Additional Classifications and Rates.** The Davis-Bacon Act states that the Contracting Officer will require that any class of laborers or mechanics not listed in the wage decision which will be employed on the contract will be classified or reclassified to conform to the wage decision. The Resident Engineer will relay on ER 1180-1-8 for detailed guidance on administrative actions. Submit requests through Chief CD to the Center Labor Advisor using SF 1444, Request for Authorization of Additional Classification and Rate.

14.4 Small Business and Small Disadvantaged Business Utilization.

a. General. In normal construction contracts, the Corps of Engineers Contracting Officer is responsible for approving the successful offeror's subcontracting plan prior to award. However, in view of the contract type, the PCO at IOC is responsible for this action. EP 415-1-260 provides guidance on the subject in chapter 7, Contract Administration. This chapter includes Huntsville Center guidance on the subject, since it is anticipated that the Systems Contractor will include this requirement under the Labor Relations Program. The guidance in chapter 7 is applicable.

The MOA with IOC requires the Resident Engineer, if requested, to assist the PCO in receiving and approving the plan as related to the construction phases. Send a request for assistance to the Chief of the Construction Directorate, who will coordinate the request. The Huntsville Center Small and Disadvantaged Business Office (SADBU) will support the Construction Directorate.

b. Pre-construction Conference (Post-award Orientation). Subcontracting requirements, including the plan incorporated into the contract, reporting requirements, incentives, and other contract decisions must be included in the agenda for pre-construction conferences and notes in the minutes. The Resident Engineer will coordinate this requirement with the PCO. The Center SADBU will participate in this conference. The conference will address all critical items identified in ER-1180-1-8, Appendix I, and Chapter 11 of this plan, Post-award Orientation.

c. Performance Ratings. The Resident Engineer will officially evaluate the construction contractor's performance and prepare yet another report. A contractor's performance rating must include an evaluation of compliance or noncompliance with subcontracting plans and related labor compliance. In the CSDP, the PCO will provide the Resident Engineer access to the negotiated Small Business and Small Disadvantaged Business Subcontracting Plan. The Center SADBU will coordinate and assist the Resident Engineer and the PCO in the evaluation

14.5 Labor Standards Checklist

a. Exhibit 14*2 is a sample handout that summarizes the basic labor requirements and checklists to assist the contractor in complying with contract requirements. Modify this exhibit to ensure updating of contract provisions and to reflect current requirements. It is recommended that this information be discussed in the pre-construction conference.

U.S. DEPARTMENT OF LABOR WAGE AND HOUR DIVISION		S A M P L E		PAYROLL		Form Approved Reg. 11 Series No. 41											
Name of contractor <input checked="" type="checkbox"/> ON SUBCONTRACTOR <input type="checkbox"/>		FOR WEEK ENDING 7 NOVEMBER 1992		PROJECT AND LOCATION 1000 W. Street Mobile, Alabama 36609		PROJECT OR CONTRACT NO. DCA01-92-C-0100											
Jane's Construction Company		WASTE WATER TREATMENT PLANT, Maxwell		DEDUCTIONS		NET											
1 NAME, ADDRESS, AND SOCIAL SECURITY NUMBER OF EMPLOYEE	2 JOB TITLE OR CLASSIFICATION	3 TO DAY AND DATE							4 TOTAL HOURS	5 RATE OF PAY	6 GROSS AMOUNT EARNED	7 FED. TAX	8 STATE TAX	9 UNION DUES	10 OTHER DEDUCTIONS	11 TOTAL DEDUCTIONS	12 NET PAY
		MON	TUE	WED	THU	FRI	SAT	SUN									
Paul Andrews 100 Oak St. Montgomery, AL 36123 SSN: 123-45-6789	Laborer							3	13.50	\$405.00	19.96	54.00	15.00			88.96	\$316.04
Guy Thomas 2173 Virginia Ct. Montgomery, AL 36123 SSN: 345-67-8910	Carpenter						3	15.00	45.00	\$675.00	23.01	67.00	16.50	15.00		121.51	\$553.49
Stanley Woodard 908 Sunset Blvd. Montgomery, AL 36123 SSN: 678-91-2345	Electrician						4	24	12.00	\$288.00	18.72	27.00	5.45	15.00		66.16	\$221.84
Marysue Mathis 809 Dunbar St. Montgomery, AL 36123 SSN: 457-78-9123	Laborer						4	40	9.00	360.00	19.10	71.00	19.00			109.00	\$251.00

Exhibit 14*1. Payroll Guidelines.

Exhibit 14*2. Labor Standards Checklist.