

Table of Contents

Volume 1

PART I. OVERVIEW

CHAPTER 1. ABOUT THIS BOOK

I. OVERVIEW

- § 1:1 Introduction
- § 1:2 Reason for this book
- § 1:3 Organization and approach

II. GUIDE TO USE

- § 1:4 The *Changes* clauses
- § 1:5 References
- § 1:6 Figures
- § 1:7 Abbreviations key
- § 1:8 Tables and index
- § 1:9 Supplementation and revision

CHAPTER 2. DEVELOPMENT OF THE *CHANGES* CLAUSE

I. OVERVIEW

- § 2:1 Introduction

II. EARLY *CHANGES* CLAUSES

- § 2:2 First fossil—1818
- § 2:3 Civil War
- § 2:4 Through World War I

III. STANDARD FORM CLAUSES

A. ORIGINAL STANDARD FORM CLAUSES

- § 2:5 Generally

B. FINAL STANDARD FORM CLAUSES

- § 2:6 Generally

- § 2:7 Supply contracts
- § 2:8 Construction contracts

IV. CURRENT CLAUSES

- § 2:9 Generally
- § 2:10 Supply contracts
- § 2:11 Construction contracts
- § 2:12 Research and development contracts
- § 2:13 Service contracts
- § 2:14 Commercial-item contracts
- § 2:15 Comparative checklist of clause language
- § 2:16 FAR deviations

CHAPTER 3. EFFECT AND PURPOSES OF THE *CHANGES* CLAUSE

I. OVERVIEW

- § 3:1 Generally
- § 3:2 Legal nature of a contract change

II. PURPOSES OF THE *CHANGES* CLAUSE

A. BACKGROUND

- § 3:3 Generally

B. GOVERNMENT OPERATING FLEXIBILITY

- § 3:4 Advantages
- § 3:5 Disadvantages

C. IMPLEMENTATION OF CONTRACTOR SUGGESTIONS

- § 3:6 Generally

D. AUTHORITY FOR ADDITIONAL PROCUREMENT

- § 3:7 Generally
- § 3:8 Early decisions
- § 3:9 Current view
- § 3:10 Scope of the competition test
- § 3:11 —Additive changes
- § 3:12 —Deductive changes

TABLE OF CONTENTS

- § 3:13 —Relation to cardinal change doctrine
- § 3:14 Time extensions
- § 3:15 Minor changes
- § 3:16 Agency justification
- § 3:17 Changes immediately after the basic award
- § 3:18 Authority to treat change as new procurement
- § 3:19 Fiscal requirements

E. VEHICLE FOR EQUITABLE ADJUSTMENTS AND CLAIMS

- § 3:20 Generally

PART II. WORKINGS OF THE *CHANGES* CLAUSE

CHAPTER 4. *CHANGES* CLAUSE COVERAGE

I. OVERVIEW

- § 4:1 Introduction

II. “WITHIN THE GENERAL SCOPE OF THE CONTRACT”

- § 4:2 In general
- § 4:3 Definition of “general scope”
- § 4:4 Changes in quantity
- § 4:5 Increase in cost
- § 4:6 Large numbers of changes
- § 4:7 Cumulative impact of changes
- § 4:8 Changes in time or place of performance
- § 4:9 Acquiescence to the change

III. TYPES OF CHANGES ALLOWED

- § 4:10 In general
- § 4:11 Drawings & specifications vs. terms & conditions
- § 4:12 Method or manner of performance
- § 4:13 Changes to Government property
- § 4:14 No description of changes
- § 4:15 Deductive changes vs. convenience terminations

CHAPTER 5. CHANGES AUTHORITY

I. OVERVIEW

§ 5:1 Introduction

II. CONTRACTING OFFICE AUTHORITY

§ 5:2 Actual authority rule—Regulatory coverage/case law explanation

§ 5:3 Contracting Officers

§ 5:4 Appointment

§ 5:5 Levels of authority

§ 5:6 Scope of authority

§ 5:7 Dollar limits

§ 5:8 Administrative Contracting Officers

III. DELEGATION OF CONTRACTING OFFICER AUTHORITY

§ 5:9 Authorized representatives

§ 5:10 Appointment of authorized representatives

§ 5:11 Contracting office employees

§ 5:12 Other employees

IV. CONSTRUCTIVE CHANGES AUTHORITY

§ 5:13 Generally

A. IMPLIED AUTHORITY

§ 5:14 Generally

§ 5:15 Implied authority found

§ 5:16 No implied authority found

§ 5:17 Emergencies

B. RATIFICATION

§ 5:18 Generally

§ 5:19 Express ratification

§ 5:20 Implied ratification

§ 5:21 Institutional ratification

C. OTHER ISSUES

§ 5:22 Imputed knowledge

§ 5:23 Contractor's duty to protest

§ 5:24 Reconciliation of conflicting cases

TABLE OF CONTENTS

CHAPTER 6. CONTRACTOR'S DUTY TO PROCEED

I. OVERVIEW

- § 6:1 In general
- § 6:2 Effect of failure to proceed
- § 6:3 Scope of duty to proceed

II. EXCEPTIONS TO DUTY TO PROCEED

- § 6:4 In general
- § 6:5 Government material breach
- § 6:6 Nonpayment
- § 6:7 Other breaches
- § 6:8 Impracticable to proceed
- § 6:9 Contractor's right to clear direction

III. OTHER MATTERS

- § 6:10 Need for communication

CHAPTER 7. FORMAL CHANGE ORDERS AND MODIFICATIONS

I. OVERVIEW

- § 7:1 Introduction

II. ORIGINATION OF CHANGES

- § 7:2 Generally
- § 7:3 Contractor-proposed changes
- § 7:4 Strategy for contractor-proposed changes
- § 7:5 Government-originated changes
- § 7:6 Proposal preparation costs

III. PROCESSING THE CHANGE

- § 7:7 Generally
- § 7:8 Government decisionmaking
- § 7:9 Finding the change
- § 7:10 Obtaining legal approval

IV. TYPE OF CHANGE ORDERS

- § 7:11 Generally

- § 7:12 Unilateral
- § 7:13 Bilateral
- § 7:14 “Not to exceed” prices
- § 7:15 Exclusion of pricing elements

V. ISSUING THE CHANGE

- § 7:16 Key requirements
- § 7:17 Standard Form 30
- § 7:18 Requirement for written change
- § 7:19 Issuance by authorized Contracting Officer
- § 7:20 Timing

PART III. SPECIAL *CHANGES* CLAUSES

CHAPTER 8. COST-REIMBURSEMENT CONTRACTS

I. OVERVIEW

- § 8:1 Introduction

II. DEFINING A “CHANGE”

- § 8:2 Applicability of *Changes* clause
- § 8:3 Comparison to fixed-price contracts
- § 8:4 Negotiated estimated cost
- § 8:5 “Level of effort” required
- § 8:6 Additional work required
- § 8:7 General rules
- § 8:8 Use of special clauses

III. *TECHNICAL DIRECTION* CLAUSES

- § 8:9 Generally
- § 8:10 Government right to direct work
- § 8:11 Role of Government technical personnel
- § 8:12 Notification of change

IV. *LIMITATION OF COST/LIMITATION OF FUNDS* CLAUSES

- § 8:13 Generally
- § 8:14 Cost overruns

TABLE OF CONTENTS

§ 8:15 Additional fee

V. COST CEILINGS

§ 8:16 Effect of cost ceilings

CHAPTER 9. VALUE ENGINEERING

I. OVERVIEW

§ 9:1 Introduction

II. VALUE ENGINEERING BASICS

§ 9:2 “Value Engineering” defined

§ 9:3 Value engineering policy

III. *VALUE ENGINEERING* CLAUSES

§ 9:4 FAR clauses

§ 9:5 Use of clauses

IV. TYPES OF SAVINGS

§ 9:6 Generally

§ 9:7 Net acquisition savings

§ 9:8 Instant contract savings

§ 9:9 —Scope of instant contract

§ 9:10 —Development and implementation costs

§ 9:11 —Negative savings

§ 9:12 Concurrent contract savings

§ 9:13 Future contract savings

§ 9:14 —Compensation methods

§ 9:15 —Contract modification

§ 9:16 Collateral savings

V. ADMINISTRATION OF THE CLAUSES

§ 9:17 Administration issues

§ 9:18 Origination of proposal

§ 9:19 Dual submission of VECPs

§ 9:20 Acceptance by Contracting Officer

§ 9:21 Rejection of proposal

§ 9:22 Changes to the contract

§ 9:23 Identification of the proposal

§ 9:24 Time of proposal submission

§ 9:25 Government delay in acting on proposals

§ 9:26 Withdrawal of proposals

VI. OTHER ISSUES

§ 9:27 Protection of technical data

§ 9:28 Unsolicited VECPs

PART IV. CONSTRUCTIVE CHANGES

CHAPTER 10. THEORY OF CONSTRUCTIVE CHANGES

I. OVERVIEW

§ 10:1 Generally

§ 10:2 “Constructive change” defined

§ 10:3 Government use of doctrine

§ 10:4 History—Pre-1945

§ 10:5 —Post-World War II

§ 10:6 Current relation to Disputes Act

II. TYPES OF CONSTRUCTIVE CHANGES

§ 10:7 Generally

§ 10:8 Contract interpretation during performance

§ 10:9 Interference and failure to cooperate

§ 10:10 Defective specifications

§ 10:11 Failure to disclose vital information

§ 10:12 Acceleration

III. IMPACT OF THE DOCTRINE

§ 10:13 Introduction

§ 10:14 Duty to proceed

§ 10:15 Equitable adjustment vs. damages

§ 10:16 Final payment

§ 10:17 Subcontractor claims

§ 10:18 Notice requirements

§ 10:19 Effect on contract administration

§ 10:20 Clauses recognizing constructive changes

TABLE OF CONTENTS

**CHAPTER 11. CONTRACT
INTERPRETATION DURING
PERFORMANCE**

I. OVERVIEW

§ 11:1 Major issues

II. CONTRACT INTERPRETATION

A. BACKGROUND

§ 11:2 Generally

§ 11:3 Rules of contract interpretation

**B. BASIC PRINCIPLES OF CONTRACT
INTERPRETATION**

§ 11:4 Intent of the parties

§ 11:5 Ascertaining the “plain meaning” of the contract language

§ 11:6 Types of evidence considered

§ 11:7 Reasonable meaning of language

§ 11:8 —Meaning to all words

§ 11:9 —Analysis of contract language

§ 11:10 —Custom and trade usage

§ 11:11 —Precedence of terms

§ 11:12 Objective evidence

§ 11:13 —Discussions prior to dispute

§ 11:14 —Actions prior to dispute

§ 11:15 —Knowledge of/acquiescence to other party’s interpretation

§ 11:16 —Parol evidence rule

§ 11:17 —Actions after the dispute

**III. ALLOCATING THE RISK OF
MISINTERPRETATION**

§ 11:18 Generally

§ 11:19 Reasonable interpretation of nondrafter

§ 11:20 Duty to request clarification

§ 11:21 Reliance by contractor

**IV. CONSTRUCTIVE CHANGE ORDERS FOR
EXTRA WORK**

A. OVERVIEW

§ 11:22 Types of constructive change orders

B. COMMUNICATIONS

- § 11:23 Generally
- § 11:24 Direct orders
- § 11:25 Suggestions and related communications
- § 11:26 Implied orders
- § 11:27 Communications during inspection

C. CONDUCT

- § 11:28 Testing and inspecting
- § 11:29 Contractor requests for changes
- § 11:30 Failing to disclose observed defects

D. OTHER TYPES OF CONSTRUCTIVE CHANGE ORDERS

- § 11:31 Changes outside the scope of the contract
- § 11:32 Use of proprietary data
- § 11:33 Orders causing higher wages
- § 11:34 Late option exercises/option alterations
- § 11:35 Indefinite delivery contracts
- § 11:36 Miscellaneous actions

CHAPTER 12. INTERFERENCE AND FAILURE TO COOPERATE

I. OVERVIEW

- § 12:1 Introduction

II. IMPLIED DUTY TO COOPERATE AND NOT TO HINDER

- § 12:2 Origins
- § 12:3 Premises
- § 12:4 Elements
- § 12:5 Limitations
- § 12:6 Abuse of discretion in approval process

III. INTERFERENCE WITH CONTRACTOR PERFORMANCE

- § 12:7 Generally
- § 12:8 During inspection
- § 12:9 Other types

TABLE OF CONTENTS

IV. FAILURE TO COOPERATE

- § 12:10 Generally
- § 12:11 Failure to provide assistance
- § 12:12 Failure to prevent another contractor's interference
- § 12:13 Failure to provide access to work site
- § 12:14 Other actions

V. ABUSE OF DISCRETION IN APPROVAL PROCESS

- § 12:15 Generally
- § 12:16 Substitution of subcontractors
- § 12:17 Substitution of equal items
- § 12:18 Disapproval of shop drawings
- § 12:19 Other types of approvals

CHAPTER 13. DEFECTIVE SPECIFICATIONS

I. OVERVIEW

- § 13:1 In general

II. BASIC THEORIES

- § 13:2 Implied warranty of detailed specifications
- § 13:3 Impossibility/impracticability of performance
- § 13:4 —Restatement (Second) view
- § 13:5 Evolution

III. IMPLIED WARRANTY OF SPECIFICATIONS

- § 13:6 In general
- § 13:7 “Warranty” vs. “duty”
- § 13:8 Scope of Government liability
- § 13:9 Causation issues
- § 13:10 Use of defective specification
- § 13:11 Standard of quality
- § 13:12 Types of specifications
- § 13:13 Types of detailed specifications
- § 13:14 Composite specifications
- § 13:15 Defects reducing performance efficiency
- § 13:16 Evidence of remedial measures
- § 13:17 Commercial availability
- § 13:18 Alternate methods of performance

GOVERNMENT CONTRACT CHANGES

- § 13:19 Brand name or equal terms
- § 13:20 Defective models & samples
- § 13:21 Contractor's duty to inquire
- § 13:22 Contractor's actual knowledge of defects
- § 13:23 Government disclaimers of liability
- § 13:24 —Specific vs. general language
- § 13:25 —Narrow interpretation rule
- § 13:26 —Government knowledge of defects
- § 13:27 —Standard clauses
- § 13:28 —Offer contingencies
- § 13:29 —Relation to other clauses and rights

IV. IMPOSSIBILITY/IMPRACTICABILITY OF PERFORMANCE

- § 13:30 In general
- § 13:31 Elements
- § 13:32 Degree of performance difficulty
- § 13:33 —Additional costs
- § 13:34 —Additional work
- § 13:35 Assumption of risk
- § 13:36 —Type of procurement/author of specification
- § 13:37 —Superior knowledge or expertise
- § 13:38 —Increases in price & availability of materials
- § 13:39 —Relation to mutual mistake
- § 13:40 —Contract clauses
- § 13:41 Contractor's burden of proof
- § 13:42 Communications following determination of impracticability

CHAPTER 14. FAILURE TO DISCLOSE VITAL INFORMATION

I. OVERVIEW

- § 14:1 Introduction
- § 14:2 Relationship of nondisclosure to misrepresentation
- § 14:3 Superior knowledge doctrine—*Helene Curtis*
- § 14:4 Constructive change or breach of contract?
- § 14:5 General analytical approach

II. ELEMENTS OF IMPLIED DUTY TO DISCLOSE

A. TYPES OF INFORMATION

- § 14:6 Technical information
- § 14:7 Preliminary indications of problems

TABLE OF CONTENTS

§ 14:8 Prior procurement information

B. AVAILABILITY OF GOVERNMENT INFORMATION

§ 14:9 In general

C. “BEST OPPORTUNITY” RULE

§ 14:10 In general

D. AVAILABILITY OF INFORMATION TO CONTRACTOR

§ 14:11 In general

§ 14:12 General industry knowledge

§ 14:13 Small business preference?

§ 14:14 Information in public domain

§ 14:15 Information from investigation

E. GOVERNMENT KNOWLEDGE OF CONTRACTOR IGNORANCE

§ 14:16 In general

III. OTHER MATTERS

§ 14:17 Government disclaimers of liability

CHAPTER 15. ACCELERATION

I. OVERVIEW

§ 15:1 Introduction

II. BASIC HISTORY

§ 15:2 Theory of constructive acceleration

III. EXCUSABLE DELAYS

§ 15:3 Generally

§ 15:4 Interpretation principles

§ 15:5 Causes of delay under contractor control

§ 15:6 Foreseeability of delay

§ 15:7 Delays due to “unusually severe” weather

§ 15:8 Subcontractor delays

§ 15:9 Government delays

- § 15:10 Concurrent delays
- § 15:11 Early completion
- § 15:12 Critical path analysis

IV. NOTICE OF DELAY

- § 15:13 Notice to Contracting Officer
- § 15:14 Request for a time extension
- § 15:15 Contracting Officer knowledge
- § 15:16 Response of Contracting Officer

V. ACCELERATION ORDERS

- § 15:17 Generally
- § 15:18 Direct orders
- § 15:19 “Requests” to accelerate
- § 15:20 Threats to terminate for default
- § 15:21 Government pressure to complete
- § 15:22 Refusal to grant time extension along with assessment of liquidated damages
- § 15:23 Failure to grant/denial of time extension
- § 15:24 Deferred response to time extension request
- § 15:25 Acceleration in mitigation of delay

VI. CONTRACT ADMINISTRATION PROCEDURES

- § 15:26 The Government
- § 15:27 The contractor

Volume 2

PART V. PRICING EQUITABLE ADJUSTMENTS

CHAPTER 16. REPRICING CHANGED WORK

I. OVERVIEW

- § 16:1 Introduction

II. EQUITABLE ADJUSTMENT BASICS

- § 16:2 Purpose & operation
- § 16:3 Repricing process

TABLE OF CONTENTS

III. ADDED WORK

A. PRICING ACTION

§ 16:4 Generally

§ 16:5 Added work—Timing of the pricing action

B. MEASURE OF REASONABLE COST

§ 16:6 Basic rule

§ 16:7 Presumption of reasonableness?

C. DEMONSTRATING REASONABLENESS

§ 16:8 Reliance on specific cost elements

§ 16:9 Contractor's method of operations

§ 16:10 Costs not incurred

IV. DELETED WORK

A. “WOULD HAVE COST” RULE

§ 16:11 Generally

§ 16:12 Application

B. PROOF OF AMOUNT

§ 16:13 Generally

§ 16:14 Work purchased by contractor

§ 16:15 Work produced by contractor

C. OTHER ISSUES

§ 16:16 Separately priced contract items

§ 16:17 Agreements altering the rule

V. OVERHEAD AND PROFIT

§ 16:18 Generally

§ 16:19 Overhead principles

§ 16:20 Profit principles

§ 16:21 Amount of profit

§ 16:22 Special contract clauses

§ 16:23 Examples

VI. EXCEPTIONAL SITUATIONS

§ 16:24 Subcontractor changes

§ 16:25 Ambiguous specifications

VII. INTEREST ON CLAIMS

- § 16:26 Generally
- § 16:27 What constitutes a claim?
- § 16:28 Certification requirements
- § 16:29 Accrual principles
- § 16:30 Rate used to compute interest
- § 16:31 Interest on borrowings

VIII. COSTS OF RECOVERING COMPENSATION FOR A CHANGE

A. CONTRACT ADMINISTRATION COSTS VS. CLAIMS PROSECUTION COSTS

- § 16:32 Generally
- § 16:33 Regulations
- § 16:34 Case law interpretation
- § 16:35 Direct or indirect costs

B. EQUAL ACCESS TO JUSTICE ACT

- § 16:36 Generally
- § 16:37 Prerequisites for recovery
- § 16:38 “Prevailing party”
- § 16:39 “Substantially justified” position
- § 16:40 Recoverable fees & expenses
- § 16:41 Balancing interest and the costs of recovering compensation for change

CHAPTER 17. COSTS OF DELAYS RELATED TO CHANGES

I. OVERVIEW

- § 17:1 Introduction
- § 17:2 Types of delays

II. DELAYS AFTER ISSUANCE OF CHANGE ORDER

- § 17:3 The *Rice* doctrine and its antecedents
- § 17:4 Later interpretation of *Rice* doctrine
- § 17:5 Current view of *Rice* doctrine
- § 17:6 Impact on other work

TABLE OF CONTENTS

III. DELAYS BEFORE ISSUANCE OF CHANGE ORDER

§ 17:7 In general

IV. COMPUTING DELAY COSTS

A. OVERVIEW

§ 17:8 In general

B. UNABSORBED OVERHEAD

§ 17:9 In general

§ 17:10 Formulas

§ 17:11 The *Eichleay* controversy before and after *Capital Electric*

§ 17:12 Current application of the *Eichleay* formula

§ 17:13 The “stand-by” requirement

§ 17:14 Application of *Eichleay* formula to nonconstruction contracts

§ 17:15 Key restrictions

§ 17:16 Permissibility of modification

C. IDLE LABOR & EQUIPMENT

§ 17:17 Overview

§ 17:18 Idle labor

§ 17:19 Idle equipment owned by contractor

§ 17:20 Idle equipment rented by contractor

§ 17:21 Contractor’s obligation to limit costs

D. LOSS OF EFFICIENCY

§ 17:22 In general

§ 17:23 Methodologies for quantifying compensation

§ 17:24 Need for expert evidence

E. OTHER MATTERS

§ 17:25 Performance in later period

§ 17:26 Other costs

§ 17:27 Profit

CHAPTER 18. PRICING SPECIAL TYPES OF EQUITABLE ADJUSTMENTS

I. OVERVIEW

§ 18:1 Introduction

II. DEFECTIVE SPECIFICATIONS

- § 18:2 Generally
- § 18:3 Delays
- § 18:4 Types of compensable costs
- § 18:5 Costs of wasted effort
- § 18:6 Remedial/investigatory costs
- § 18:7 Repricing the work
- § 18:8 Avoidable costs

III. ACCELERATION

- § 18:9 Generally

A. RELATING ACCELERATION COSTS TO DELAYS

- § 18:10 Generally
- § 18:11 Excusable versus contractor caused delays
- § 18:12 Calculating recovered time

B. RECOVERABLE ACCELERATION COSTS

- § 18:13 Generally
- § 18:14 Labor costs
- § 18:15 Material costs
- § 18:16 Working under adverse conditions
- § 18:17 Loss of efficiency
- § 18:18 Miscellaneous costs
- § 18:19 Computing the equitable adjustment

IV. INCENTIVE CONTRACTS

- § 18:20 Generally
- § 18:21 Cost incentives
- § 18:22 Performance & delivery incentives

V. OTHER EQUITABLE ADJUSTMENT ISSUES

- § 18:23 Value engineering changes
- § 18:24 Deductive changes vs. convenience terminations

CHAPTER 19. PROVING THE EQUITABLE ADJUSTMENT AMOUNT

I. OVERVIEW

- § 19:1 Introduction

TABLE OF CONTENTS

II. ADDED AND DELETED WORK

A. ADDED WORK—CONTRACTOR’S BURDEN

- § 19:2 Types and amount of evidence
- § 19:3 Amount of costs
- § 19:4 Causation

B. DELETED WORK—GOVERNMENT’S BURDEN

- § 19:5 Generally

III. ACTUAL COST DATA

- § 19:6 Generally
- § 19:7 Need for segregation of costs
- § 19:8 Segregation of costs excused
- § 19:9 Types of evidence

IV. PRICING EQUITABLE ADJUSTMENTS

A. THE “JURY VERDICT” METHOD

- § 19:10 Generally
- § 19:11 Restraints
- § 19:12 Different application to small business concerns?
- § 19:13 Expert evidence
- § 19:14 Other direct evidence
- § 19:15 Corroborating evidence
- § 19:16 “Jury Verdict” techniques

B. TOTAL COST METHOD

- § 19:17 Generally
- § 19:18 Requirements for use
- § 19:19 Lack of other pricing methods
- § 19:20 Accuracy of contractor’s offer
- § 19:21 Cost reasonableness/Government responsibility for costs
- § 19:22 Modified “total cost” method

PART VI. PRICE ADJUSTMENTS AND CONTRACT MODIFICATIONS

CHAPTER 20. NOTICE OF REQUESTS FOR EQUITABLE ADJUSTMENT

I. OVERVIEW

- § 20:1 Introduction

II. CONTRACTOR NOTICE OF REQUESTS FOR EQUITABLE ADJUSTMENT

A. OBLIGATIONS

§ 20:2 Generally

B. THIRTY-DAY NOTICE REQUIREMENTS

§ 20:3 Generally

§ 20:4 Rule of liberality

§ 20:5 Non-enforcement of requirement

§ 20:6 Absence of agency prejudice

§ 20:7 Balancing approach

§ 20:8 Contract administration procedures

C. CONSTRUCTIVE CHANGES

§ 20:9 Generally

§ 20:10 Court created notification policy

§ 20:11 Construction contracts

§ 20:12 *Notification of Changes* clause

§ 20:13 Acceleration

D. EFFECT OF FINAL PAYMENT

§ 20:14 Generally

§ 20:15 Intent of the parties

§ 20:16 Pending requests

§ 20:17 Contract administration procedures

III. GOVERNMENT NOTICE OF REQUESTS FOR EQUITABLE ADJUSTMENT

§ 20:18 Generally

§ 20:19 Case law limitations

§ 20:20 Statute of limitations

CHAPTER 21. PRICE ADJUSTMENT PROCEDURES

I. OVERVIEW

§ 21:1 Introduction

II. CONTRACTOR REQUESTS FOR PRICE INCREASES

§ 21:2 Overview

TABLE OF CONTENTS

§ 21:3 Government analysis and information

III. “COST OR PRICING DATA” REQUIREMENTS

- § 21:4 Generally
- § 21:5 Contract clauses
- § 21:6 Definition of “Cost or Pricing Data”
- § 21:7 Use by contractor and Government
- § 21:8 Submission requirement
- § 21:9 Subcontractors
- § 21:10 Certification of data
- § 21:11 Adjustments for defective data
- § 21:12 Contractor defenses to defective pricing claims

IV. OTHER PRICE ADJUSTMENTS

- § 21:13 Government requested price decreases
- § 21:14 Limitations on minor price adjustments

CHAPTER 22. PRICE NEGOTIATION AND CONTRACT MODIFICATIONS

I. OVERVIEW

- § 22:1 Introduction

II. NEGOTIATING THE ADJUSTMENT

- § 22:2 Government analysis of contractor proposals
- § 22:3 Field pricing assistance and related matters
- § 22:4 Government audit rights
- § 22:5 Pricing formulas
- § 22:6 Negotiation techniques
- § 22:7 Documenting the adjustment
- § 22:8 Administration of unpriced change orders

III. BILATERAL CONTRACT MODIFICATIONS

- § 22:9 Prerequisites
- § 22:10 “Supplemental agreements”
- § 22:11 Partial settlements

IV. EFFECT OF CONTRACT MODIFICATIONS

- § 22:12 Generally
- § 22:13 Release
- § 22:14 Applicability of rules of contract interpretation

GOVERNMENT CONTRACT CHANGES

- § 22:15 Intent of the parties
- § 22:16 Parol evidence and plain meaning rules
- § 22:17 Express exceptions
- § 22:18 Predetermining the coverage of the equitable adjustment
- § 22:19 Fiscal matters
- § 22:20 Lack of consideration
- § 22:21 Mistake
- § 22:22 Duress
- § 22:23 Fraud and misrepresentation

APPENDICES

Appendix A. List of Figures

Appendix B. Abbreviations Key

Table of Laws and Rules

Table of Cases

Index