

officer to include in the contract file a statement of the facts that lead to the selection of a particular method.]

11-122. CONTRACT CLAUSES GENERALLY.

(A) EVERY CONTRACT SHALL INCLUDE CLAUSES COVERING:

- (1) TERMINATION FOR DEFAULT;
- (2) TERMINATION IN WHOLE OR IN PART FOR THE CONVENIENCE OF THE STATE WHEN DETERMINED TO BE APPROPRIATE BY THE DEPARTMENT HEAD;
- (3) THE UNILATERAL RIGHT OF THE STATE TO ORDER IN WRITING CHANGES IN THE WORK WITHIN THE SCOPE OF THE CONTRACT;
- (4) THE ~~UNILATERAL~~ UNILATERAL RIGHT OF THE STATE TO ORDER IN WRITING A TEMPORARY STOP OR DELAY IN PERFORMANCE;
- (5) VARIATIONS OCCURRING BETWEEN ESTIMATED QUANTITIES OF WORK IN A CONTRACT AND ACTUAL QUANTITIES;
- (6) LIQUIDATED DAMAGES AS APPROPRIATE; AND
- (7) SPECIFIED EXCUSES FOR NONPERFORMANCE.

(B) (1) IN ADDITION TO THE CLAUSES SET FORTH IN SUBSECTION (A) OF THIS SECTION, EVERY CONSTRUCTION CONTRACT SHALL INCLUDE A PROVISION COVERING CONTRACT MODIFICATION IF A SITE CONDITION IS DIFFERENT FROM THAT INDICATED IN THE SPECIFICATIONS.

(2) THE PROVISIONS REGARDING CONSTRUCTION CONTRACT MODIFICATIONS OR CHANGE ORDERS THAT ARE REQUIRED BY THIS SECTION SHALL INCLUDE A STATEMENT THAT:

(I) EVERY CONTRACT MODIFICATION OR CHANGE ORDER AFFECTING CONTRACT PRICE IS SUBJECT TO PRIOR WRITTEN APPROVAL BY THE PROCUREMENT AGENCY AND ANY OTHER APPROPRIATE AUTHORITIES AND TO PRIOR CERTIFICATION BY THE APPROPRIATE FISCAL AUTHORITY AS TO THE AVAILABILITY OF FUNDS AND THE EFFECT OF THE MODIFICATION OR CHANGE ORDER ON THE PROJECT BUDGET OR THE TOTAL CONSTRUCTION COST; AND

(II) IF THE CERTIFICATION DISCLOSES THAT A CONTRACT MODIFICATION OR CHANGE ORDER WILL INCREASE THE COST BEYOND BUDGETED AND AVAILABLE FUNDS, THE PROCUREMENT AGENCY MAY NOT MAKE THE MODIFICATION OR CHANGE ORDER UNLESS SUFFICIENT ADDITIONAL FUNDS ARE MADE AVAILABLE OR THE SCOPE OF THE PROJECT IS ADJUSTED TO PERMIT ITS COMPLETION WITHIN THE PROJECT BUDGET.

(C) EVERY MULTIYEAR CONTRACT, INCLUDING A LEASE OF REAL PROPERTY, SHALL CONTAIN A CLAUSE, NOT INCONSISTENT WITH § 11-129(A) OF THIS SUBTITLE, PROVIDING FOR AUTOMATIC TERMINATION FOR NONAPPROPRIATION OF FUNDS.