

CHAPTER 6 - LABOR DISPUTES, WORK STOPPAGES, ACTIVITIES AND COMPLAINTS OF LABOR REPRESENTATIVES

6-1. General. The contractor has the basic responsibility for handling labor difficulties and work stoppages. As provided in the contract General Provisions clause entitled "Notice to the Government of Labor Disputes," whenever the contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of the contract, the contractor is required to give immediate notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

6-2. Action at District Office Level.

a. Contracting Officer and Labor Relations Advisor. Care must be exercised not to obligate the government beyond what is compatible with law and regulations and not to intimidate either contractors or laborers. The scope of action at the District level is limited and must not involve the Corps of Engineers in the merits of labor disputes which clearly do not raise an issue or involve allegations of violations of the government contract labor standards provisions. In such cases the Contracting Officer or the District Labor Relations Advisor may assist in settlement of disputes only by advising contractors to make use of any facilities for conciliation and arbitration available in the industry or locality including the Federal Mediation and Conciliation Service, the National Labor Relations Board, state and local labor services, and arbitration machinery established by collective bargaining agreements or by labor and contractor organizations.

b. Handling Jurisdictional Disputes. Neither the Contracting Officer nor the District Labor Relations Advisor will take part in the actual adjustment of jurisdictional disputes between unions or similar disputes between labor representatives and contractors. They may, however, attempt to get the parties in dispute together so that the parties may settle their differences. On a dispute over work jurisdiction between unions within the Building and Construction Trades Department, AFL-CIO, the contractor should be advised to refer the question to the National Joint Board for the Settlement of Jurisdictional Disputes if attempts to settle the dispute locally fail. Attempts should be made to settle disputes over work jurisdiction or union representation between other organized labor groups by agreement of the local, regional, or national union leaders concerned or by the facilities offered by the Federal Mediation and Conciliation Service and the National Labor Relations Board if the parties to the dispute cannot be persuaded to settle their differences.

c. Reporting Disputes. Reports on labor disputes required by FAR 22.101-3 and

1 Aug 01

instructions from Office, Chief of Engineers, will be dispatched to higher authority by the District Labor Relations Advisor as expeditiously as the importance and impact of the situation dictates. Reporting procedures to be followed by ACO personnel are outlined in Figure 6-1, which follows Chapter 6. These procedures are set forth below.

6-3. Action by Contractor.

a. Whenever he has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of the contract work, he should immediately notify the Contracting Officer and furnish all relevant information with respect thereto.

b. In some cases, labor disputes may give rise to work stoppages which cause delays in the timely performance of contracts. The Contracting Officer should advise the contractor that he will be held accountable for delays that are reasonably avoidable. It should be emphasized that the standard contract clauses dealing with default, excusable delays, etc., do not relieve the contractor of delays that are not beyond his or his subcontractors' control. A delay caused by a strike which is an unfair labor practice and which the contractor could not reasonably prevent can be excused only to the extent that it does not go beyond the point at which a reasonably diligent contractor could resume the delayed performance by ending the strike by such means as:

(1) Filing a charge with the National Labor Relations Board so as to permit the NLRB to seek injunctive relief in court;

(2) Use of the National Joint Board for the Settlement of Jurisdictional Disputes, or other private Boards or organizations for the settlement of disputes.

6-4. Reporting Labor Disputes and Work Stoppages.

a. Quality Assurance Personnel. All field personnel should be on the alert for labor difficulties, and when they become aware of any actual or potential labor difficulties, such information will be given to the ACO for appropriate action. Such appropriate action will involve immediate contact with the contractor or his representative on the worksite to obtain all relevant information with respect thereto. QA personnel should make such inquiry of the contractor as is necessary to obtain all information available for reporting purposes. In the event the contractor does not have all the relevant information and representatives of the aggrieved labor group are on the jobsite, contacts with them by QA personnel should be limited to obtaining information which is pertinent to a complete preliminary report. Higher headquarters concerned should be furnished the information as soon as possible by the most expeditious means.

b. Reporting by the ACO. When a labor dispute, work stoppage, or threatened work stoppage occurs, the ACO will comply with the following procedure:

(1) Initial Report. The initial report should be forwarded by telephone, fax or e-mail to the District Labor Advisor and the CO. The report will contain the information available as set forth at DFARS 222.101-3.

(2) Follow-up Reports. Such reports will be made in accordance with paragraph (1) above, to report information not available at the time of the initial report and to report significant changes in the situation as previously reported. Follow-up reports will be made not less often than weekly for the duration of the dispute.

(3) Final Reports. Final reports, containing all information called for and signed by the responsible official of the reporting office, will be forwarded within five days after the conclusion of the work stoppage.

6-5. Labor Activities.

a. Union and Open-Shop Contractors. Government contracting policy requires award of lump-sum contracts to the lowest responsible bidder, irrespective of his labor policies in regard to employment of "union" or "non-union" workmen.

b. Activities of Representatives of Labor Organizations.

(1) Accredited representatives of labor unions or other organizations may carry on legitimate and normal business dealings with the contractor or District Engineer and will not, because of their position, be denied access to a project. The following applies to labor activities on military reservations, civil works reservations and all other contract work sites.

(2) Whenever labor representatives request permission to enter Corps of Engineers installations on which private contractor employees are engaged in contract work, to conduct union business during working hours in connection with the contract between the Government and the contractor on which union members are employed, the ACO may admit such representatives, provided:

(a) the presence and activities of the labor representatives will not interfere with the progress of the contract work involved, and

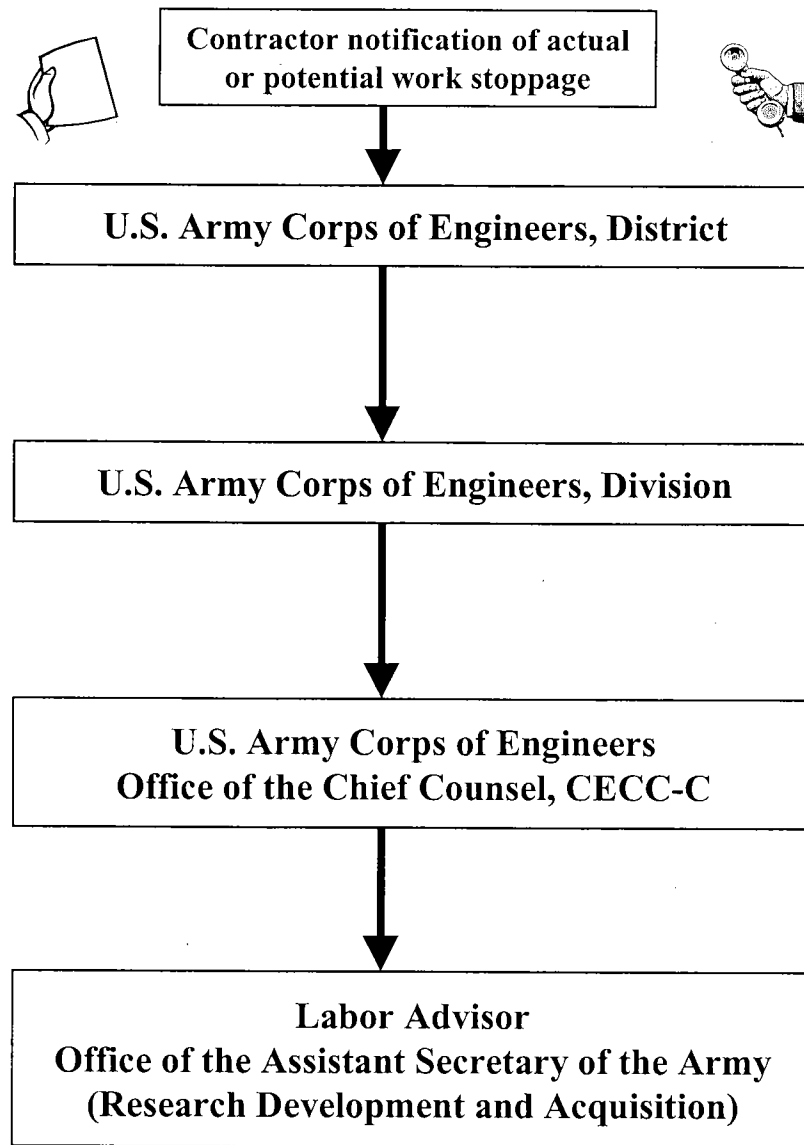
1 Aug 01

(b) the entry of such representatives to the installation will not violate pertinent safety or security regulations. Labor representatives are not authorized to engage in organizing activities, collective bargaining discussions or other matters not directly connected with the government contract, on such installations. However, the ACO may authorize labor representatives to enter upon the installation for the purpose of distributing organizational literature and authorization cards to private contractors' employees provided such distribution does not:

- occur in working areas or during working times of employees concerned;
- interfere with contract performance;
- interfere with the efficient operation of the installation; or
- violate pertinent safety or security regulations.

The determination as to who is an appropriate labor representative should be made by the ACO on recommendation of the District Labor Relations Advisor after consultation with local union officials. Business offices or desk space for labor organizations for solicitation of membership, collection of dues, or other business of the labor organization, not directly connected with the contract work shall not be permitted on the installation, except for the routine functions of the working steward whose union duties are incidental to his assigned job. In the event the ACO denies entry to a labor representative for any reason, he shall include the reasons for denial, including (1) names and addresses of representatives denied entry, (2) union affiliation of such representatives if known.

c. Complaints from Representatives of Unions, Trust Funds and Apprenticeship Programs. Complaints from such representatives, other interested parties, or contractor employees, alleging that a contractor is not complying with the fringe benefit payment requirements, or other labor requirements of the government contract provisions, are not to be regarded as "disputes" of the type discussed above. Complaints regarding nonpayment of fringe benefits involve a question of compliance with the contract minimum wage requirements which Contracting Officers are responsible for enforcing. Accordingly, an investigation by the District Labor Relations Advisor, including an interview with the complainant(s), shall be promptly conducted to determine the facts, and extent of corrective action, if any, required of the contractor.



Reference: FAR 22.101
DFARS 222.101-3

Figure 6-1. - Processing of Contractor's Notification of Actual or Potential Labor Dispute