

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified

Send comments to Mr. James Davis, President, Mission Bend M.U.D., c/o Vincent & Elkins, First City Tower, 100 Fannin, Houston, Texas 77002.

Maps are available for inspection at 7007 South Rice, Bellaire, Texas.

Send comments to The Honorable Harold Penn, Mayor, City of Bellaire, 7008 South Rice, Bellaire, Texas 77401.

Maps are available for inspection at the City of Houston Building (Basement), 1801 Main, Houston, Texas.

Send comments to The Honorable Lee P. Brown, Mayor, City of Houston, 901 Bagby, Houston, Texas 77002.

Maps are available for inspection at the City of Humble City Hall, 114 West Higgins, Humble, Texas.

Send comments to The Honorable Wilson Archer, Mayor, City of Humble, P.O. Box 1627, Humble, Texas 77459.

Maps are available for inspection at the Office of the Chief Building Official, 3826 Amherst, West University Place, Texas.

Send comments to The Honorable Teresa Fogler, Mayor, City of West University Place, 3800 University Boulevard, Houston, Texas 77005.

Maps are available for inspection at the City of Stafford City Hall, 2610 South Main, Stafford, Texas.

Send comments to The Honorable Leonard Scarcella, Mayor, City of Stafford, 2610 South Main, Stafford, Texas 77477.

Maps are available for inspection at the City of Missouri City Hall, 1522 Texas Parkway, Missouri City, Texas.

Send comments to The Honorable Allen Owen, Mayor, City of Missouri City, P.O. Box 666, Missouri City, Texas 77459.

Maps are available for inspection at the City of Galena Park City Hall, 2000 Clinton Drive, Galena Park, Texas.

Send comments to The Honorable Bobby Barrett, Mayor, City of Galena Park, P.O. Box 46, Galena Park, Texas 77547.

Maps are available for inspection at 800 First City Tower, 1001 Fannin Street, Houston, Texas.

Send comments to Mr. Richard Baker, President, Chelford City M.U.D., c/o Coats, Rose, Yale, et al., 800 First City Tower, 1001 Fannin Street, Houston, Texas 77002.

Maps are available for inspection at 301 Jackson Street, Suite 719, Richmond, Texas.

Send comments to The Honorable Michael D. Rozell, Judge, Fort Bend County, 301 Jackson Street, Suite 719, Richmond, Texas 77469.

Maps are available for inspection at Mission Bend M.U.D. No. 2, c/o Vinson & Elkins, 2300 First City Tower, 1001 Fannin, Houston, Texas.

Send comments to Ms. Diana Littlefield, President, Mission Bend M.U.D. No. 2, c/o Vinson & Elkins, 2300 First City Tower, 1001 Fannin, Houston, Texas 77002-6760.

Maps are available for inspection at the City of Meadow Place City Hall, One Troyan Drive, Meadows Place, Texas.

Send comments to The Honorable Jim McDonald, Mayor, City of Meadows Place, One Troyan Drive, Meadows Place, Texas 77477.

Maps are available for inspection at the City of Sugarland Engineering Department, 10405 Corporate Drive, Sugarland, Texas.

Send comments to The Honorable Dean Hrbacek, Mayor, City of Sugarland, P.O. Box 110, Sugarland, Texas 77487-0110.

Maps are available for inspection at the City of Southside Place City Hall, 6309 Edloe Street, Houston, Texas.

Send comments to The Honorable Ben Hurst, Mayor, City of Southside Place, 6309 Edloe Street, Houston, Texas 77005.

Texas .....	Montgomery County And Incorporated Areas.	Bens Branch .....	Approximately 2,900 feet downstream of confluence with Bens Branch Tributary 1.	*71	*74
			Just downstream of Southern Pacific Railroad.	*81	*80
			Approximately 150 feet upstream of U.S. Route 59 South.	*82	*81

Maps are available for inspection at 301 North Thompson Street, Suite 208, Conroe, Texas.

Send comments to The Honorable Alan B. Sadler, Judge, Montgomery County, 301 North Thompson Street, Suite 210, Conroe, Texas 77301.

<sup>1</sup>Value rounded to nearest whole foot.  
+NGVD-1973 Releveling  
++NGVD-1987 Releveling

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: January 11, 1999.

**Michael J. Armstrong,**

*Associate Director for Mitigation.*

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**ENVIRONMENTAL PROTECTION AGENCY**

**48 CFR Parts 1537 and 1552**

[FRL-6220-9]

**Acquisition Regulation: Service Contracting—Avoiding Improper Personal Services Relationships**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is issuing this proposed

rule to amend the EPA Acquisition Regulation (EPAAR) (48 CFR Chapter 15) to emphasize the proper relationship between the Government and its contractors in its non-personal services contracts. The Agency recognizes that regardless of the express terms of its contracts, if a contract is administered improperly, an improper personal services relationship can be the result. This proposed rule is designed to ensure that the manner in which contracts are administered will not create an improper employer-employee relationship.

**DATES:** Comments should be submitted no later than March 22, 1999.

**ADDRESSES:** Written comments should be submitted to the contact listed below at the following address: U.S. Environmental Protection Agency, Office of Acquisition Management (3802R), 401 M Street, SW, Washington, D.C. 20460. Comments and data may also be submitted by sending electronic mail (e-mail) to: Senzel.Louise@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 6.1 format or ASCII file format. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this rule may be filed on-line at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** Louise Senzel, U.S. EPA, Office of Acquisition Management, (3802R), 401 M Street, SW, Washington, D.C. 20460, Telephone: (202) 564-4367.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

Recent Agency audits have indicated a vulnerability in the manner in which Agency contracts have been administered which could create the existence of improper personal services relationships. The proposed rule will amend the EPAAR to emphasize the proper relationship between the Government and its contractors in the Government's non-personal services contracts. The Agency recognizes that regardless of the express terms of its contracts, if a contract is administered improperly, improper personal services relationship can be the result. Accordingly, the Agency is trying to highlight the nature of the proper relationship to ensure that the manner in which contracts are administered will not create an improper employer-employee relationship.

**B. Executive Order 12866**

The proposed rule is not a significant regulatory action for the purposes of E.O. 12866; therefore, no review is required by the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB).

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because this proposed rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.)

**D. Regulatory Flexibility Act**

The EPA certifies that this proposed rule does not exert a significant economic impact on a substantial number of small entities. The requirements to contractors under the rule impose no reporting, record-keeping, or any compliance costs.

**E. Unfunded Mandates**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the impact of their regulatory actions on State, local, and tribal governments, and the private sector. This proposed rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in one year. Any private sector costs for this action relate to paperwork requirements and associated expenditures that are far below the level established for UMRA applicability. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

**F. Executive Order 13045**

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be economically significant as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

**G. Executive Order 12875**

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with

those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

**H. Executive Order 13084**

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with these governments. If EPA complies by consulting EPA must provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

**I. National Technology Transfer and Advancement Act of 1995**

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub. L. No. 104-113, § 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus

standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

#### List of Subjects in 48 CFR Parts 1537 and 1552

Government procurement.

**Authority:** The provisions of this regulation are issued under 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390.

Therefore, 48 CFR Chapter 15 is proposed to be amended as set forth below:

1. The authority citation for Parts 1537 and 1552 continues to read as follows:

**Authority:** Sec. 205(c), 63 Stat. 390, as amended.

#### PART 1537—[AMENDED]

2. Section 1537.110 is amended to add paragraph (g) to read as follows:

##### § 1537.110 Solicitation provisions and contract clauses.

\* \* \* \* \*

(g) To ensure that Agency contracts are administered so as to avoid creating an improper employer-employee relationship, contracting officers shall insert the contract clause at 48 CFR 1552.237-76, "Government-Contractor Relations", in all solicitations and contracts for non-personal services.

#### PART 1552—[AMENDED]

3. Add 1552.237-76 to read as follows:

##### § 1552.237-76 Government-contractor relations.

As prescribed in 1537.110(g), insert the following clause:

##### GOVERNMENT-CONTRACTOR RELATIONS (month and year of publication in the Federal Register)

(a) The Government and the contractor understand and agree that the services to be delivered under this contract by the contractor to the Government are non-personal services and the parties recognize and agree that no employer-employee relationship exists or will exist under the contract between the Government and the contractor's personnel. It is, therefore, in the best interest of the Government to afford both parties a full understanding of their respective obligations.

(b) Contractor personnel under this contract shall not:

(1) Be placed in a position where they are under the supervision, direction, or evaluation of a Government employee.

(2) Be placed in a position of command, supervision, administration or control over Government personnel, or over personnel of other contractors under other EPA contracts, or become a part of the Government organization.

(3) Be used in administration or supervision of Government procurement activities.

(c) Employee Relationship:

(1) The services to be performed under this contract do not require the Contractor or his/her personnel to exercise personal judgment and discretion on behalf of the Government. Rather the Contractor's personnel will act and exercise personal judgment and discretion on behalf of the Contractor.

(2) Rules, regulations, directives, and requirements that are issued by the U.S. Environmental Protection Agency under its responsibility for good order, administration, and security are applicable to all personnel who enter the Government installation or who travel on Government transportation. This is not to be construed or interpreted to establish any degree of Government control that is inconsistent with a non-personal services contract.

(d) Inapplicability of Employee Benefits: This contract does not create an employer-employee relationship. Accordingly, entitlements and benefits applicable to such relationships do not apply.

(1) Payments by the Government under this contract are not subject to Federal income tax withholdings.

(2) Payments by the Government under this contract are not subject to the Federal Insurance Contributions Act.

(3) The Contractor is not entitled to unemployment compensation benefits under the Social Security Act, as amended, by virtue of performance of this contract.

(4) The Contractor is not entitled to workman's compensation benefits by virtue of this contract.

(5) The entire consideration and benefits to the Contractor for performance of this contract is contained in the provisions for payment under this contract.

(e) Notice. It is the Contractor's, as well as, the Government's responsibility to monitor contract activities and notify the Contracting Officer if the Contractor believes that the intent of this clause has been or may be violated.

(1) The Contractor should notify the Contracting Officer in writing promptly, within \_\_\_\_\_ (to be negotiated) calendar days from the date of any incident that the Contractor considers to constitute a violation of this clause. The notice should include the date, nature and circumstance of the conduct, the name, function and activity of each Government employee or Contractor official or employee involved or knowledgeable about such conduct, identify any documents or substance of any oral communication involved in the contact, and the estimate in time by which the Government must respond to this notice to minimize cost, delay or disruption of performance.

(2) The Contracting Officer will promptly, within \_\_\_\_\_ (to be negotiated) calendar days after receipt of notice, respond to the notice in writing. In responding, the Contracting Officer will either:

(i) Confirm that the conduct is in violation and when necessary direct the mode of further performance,

(ii) Countermand any communication regarded as a violation,

(iii) Deny that the conduct constitutes a violation and when necessary direct the mode of further performance; or

(iv) In the event the notice is inadequate to make a decision, advise the Contractor what additional information is required, and establish the date by which it should be furnished by the Contractor and the date thereafter by which the Government will respond.

(End of clause)

Dated: December 9, 1998.

**Betty L. Bailey,**

*Director, Office of Acquisition Management.*

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