

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

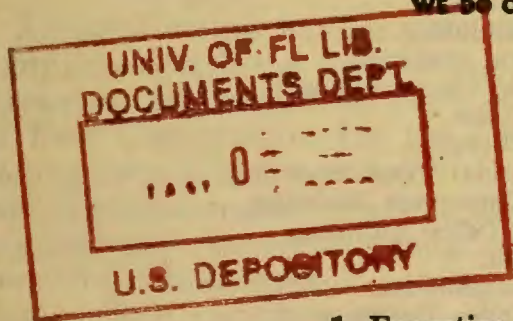
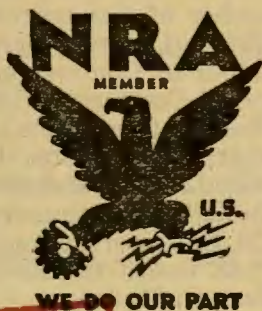
FOR THE

CONSTRUCTION INDUSTRY

AS APPROVED ON JANUARY 31, 1934

BY

PRESIDENT ROOSEVELT



1. Executive Order
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Approved Code No. 244

CODE OF FAIR COMPETITION
FOR THE
CONSTRUCTION INDUSTRY
As Approved on January 31, 1934
BY
PRESIDENT ROOSEVELT

Executive Order

CODE OF FAIR COMPETITION FOR THE CONSTRUCTION INDUSTRY

An application having been duly made, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Construction Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said Code of Fair Competition together with his recommendations and findings with respect thereto, and the Administrator having found that the said Code of Fair Competition complies in all respects with the pertinent provisions of Title I of said Act and that the requirements of Clauses (1) and (2) of Subsection (a) of Section 3 of the said Act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do approve the report and recommendations and adopt the findings of the Administrator and do order that the said Code of Fair Competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
January 31, 1934.

The PRESIDENT,
The White House.

SIR:

A proposed Code of Fair Competition for the Construction Industry was submitted to the Administrator on August 7, 1933, by The Construction League of the United States. The hearing was conducted in Washington on September 6, 1933. The Code was revised during the recess of this hearing and a reconvened hearing was held November 20, 1933.

At the conclusion of the reconvened hearing, I appointed a committee to report on this Code. This committee was composed of representatives from this Administration and from the interested employer and employee groups and associations.

The deliberations of this committee were very helpful, but certain controversial points were not satisfactorily adjusted. The controversial points in the Code have now been satisfactorily adjusted and the Code, as now submitted to you, has the approval of both employer and employee groups.

In addition to the establishment of a Construction Code Authority to administer the Code generally, the Code provides for the establishment of Construction Planning and Adjustment Boards. The National Construction Planning and Adjustment Board will consist of ten persons to be selected by the Construction Code Authority and ten persons will be selected by the Labor Advisory Board from nominations of the Construction employee organizations, and a disinterested chairman will be selected by the President upon the recommendation of the Administrator.

This Board will have the authority to establish subsidiary regional boards to be known as Regional Construction Planning and Adjustment Boards providing equal representation of employer and employee groups. Such actions as they may see fit to take are subject to final determination by the National Construction Planning and Adjustment Board.

The establishment of these Boards is of prime importance as they provide a method by which Industry and Labor may meet on common ground for the purpose of planning for the entire industry and for the adjustment of such disputes as may be submitted to them. They will make possible the cooperation of employers and employees in all matters pertaining to their relations, and to all matters pertinent to the Industry.

The provisions of the Code providing for these Boards do not, however, make it mandatory upon the part of anyone to submit their problems to these Boards nor mandatory upon the part of the Boards to accept for adjustment such problems.

Provisions of code as to wages and hours.—To effectuate the policy of Title I of the Act, this Code provides for collective bargaining between truly representative groups or associations of em-

employers and employees for a specifically defined region or locality. The entire United States may be defined as a region. Mutual agreements so reached as to hours of labor, rates of pay, and other conditions relating to occupations or types of operations, when approved by the President, become the standard of hours of labor, rates of pay, and other conditions of employment. After the President's approval of such mutual agreements, it becomes *prima facie* unfair competition for an employer to fail to comply with these agreements, arrived at through collective bargaining. The Administrator will establish such boards (composed of employers and employees) as are necessary to investigate all complaints as to such unfair practice arising under such agreements.

In regions or localities where no such mutual agreement has been approved, the following maximum hours and minimum rates of pay will prevail: The maximum hours are limited to 40 hours per week for laborers, accounting, clerical, and office employees. Upon the approval by the National Planning and Adjustment Board, working hours not exceeding 48 hours per week may be allowed on projects so remote and inaccessible that camps and floating plants are necessary for housing or boarding of the majority of the labor employed, or on such projects when working time has been lost because of inclement weather or unavoidable delays, or on projects in localities where a sufficient amount of qualified labor is not available in the immediate vicinity of the work. Hours for accounting, clerical, or office employees are flexible during a four-week period.

The following classes of employees are exempted from the maximum hourly provisions of the Code:

(a) Employees engaged in professional, executive, or supervisory work.

(b) Employees in establishments employing not more than two (2) persons in towns of less than 2,500 population, which towns are not part of a larger trade area.

(c) Employees engaged in emergency work, involving breakdowns or protection of life or property.

(d) Watchmen.

(e) Other employees who may be exempted in chapters of this Code specifically applicable only to the divisions or subdivisions of the industry therein defined.

No evasion of this Code by reclassifications of workers can be permitted.

The minimum wage rate, varying from \$15.00 to \$12.00 for accounting, office, and clerical employees, is based on population differentials. For laborers, the minimum rate is 40¢ per hour and shall not be construed as establishing a minimum rate of pay for other than common or unskilled labor and shall not be construed to authorize reductions in existing rates of pay.

No minor under the age of 16 years of age shall be employed.

ECONOMIC EFFECT OF THE CODE

Very great potential economic benefits for the Construction Industry are assured by this Code for the Construction Industry especially in view of its proposed supplementary chapters for the several functional divisions of the industry.

The Code gives to the Construction Industry, for the first time, the power of coordinated action, which may be used to check the violent fluctuations in volume of construction, ranging from 100% above to 50% below normal requirements, and work toward stabilization based upon demand; to unify the Industry, locally, regionally, and nationally for self-government; and to provide unity of action in meeting national emergencies.

The provisions of the Code designed to prevent practices known as "bid shopping" and "bid peddling" will be productive of fair competition in contracting for construction work. These provisions, in conjunction with the provisions as to area agreements concerning labor conditions, should greatly facilitate strict adherence by all members of the Industry to such Code provisions as those intended to prevent "bid shopping" and "bid peddling" and thus tend to create equally the same conditions for labor and members of the Industry.

Return to normal volume in the Industry can result only through investment of private capital in construction. The increased cost of construction, due to an immediate increase in wage rates, will not be productive of private construction work at the present time. Such work is optional and depends to a large extent on the relationship of current construction cost to anticipated net income or future increment in value. In these circumstances, further limitation on hours will have little effect on increasing employment as construction volume has sunk to such low levels that it is impossible to spread the small amount of work among a greater number of people without reducing all wage payments below a living minimum wage.

The second largest industry in the nation has as yet shown no signs of recovery under the National Recovery Program although capable of putting more than half of the remaining unemployed back to work. This Code for the Construction Industry with its main and proposed supplementary chapters provides, for the first time, machinery which could operate according to an unified plan both to aid immediately in the recovery movement and to begin the long-term stabilization of the Construction Industry.

FINDINGS

The Division Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter:

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be

temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant associations are industrial associations truly representative of the aforesaid Industry; and that said associations impose no inequitable restrictions on admission to membership therein.

(c) The Code is not designed to and will not permit monopolies or monopolistic practices.

(d) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(e) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

For these reasons, therefore, I recommend approval of this Code.

Respectfully,

HUGH S. JOHNSON,
Administrator.

January 31, 1934.

CODE OF FAIR COMPETITION

FOR THE

CONSTRUCTION INDUSTRY

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Construction Industry, and shall be the standard of fair competition for this industry and shall be binding upon every member thereof.

CHAPTER I—GENERAL PROVISIONS

ARTICLE I—APPLICATION

The provisions of this Code shall apply to the entire industry as hereinafter defined, excluding operations therein undertaken in accordance with bona fide bids made not more than sixty (60) days prior to the effective date, or contracts entered into prior to the effective date; except that the provisions of each chapter incorporated in this Code shall apply only to the division or subdivision of the Industry defined in such chapter. In the case of conflict between such chapter provisions and the general provisions of this Code, the chapter provisions shall govern. If any other code of fair competition or a provision thereof, heretofore or hereafter approved by the President, shall conflict with this Code or with any provisions thereof, the Administrator may hold such hearings as he may deem necessary and thereafter may, if in his judgment justice requires, grant such stay, exception, or exemption or make such other determination as he may deem advisable to effectuate the policies of the Act.

ARTICLE II—DEFINITIONS

SECTION 1. The term "construction industry" or "the industry" as used herein shall include the designing and the constructing of (and the installing and the applying, including the assembling at the site, of manufactured parts and products incorporated in and to):

(a) building structures, including modifications thereof and fixed construction accessory thereto, intended for use as shelter; and other

(b) fixed structures and other fixed improvements and modifications thereof, intended for use in industry, commerce, sanitation, transportation, communication, flood control, power development, reclamation, and other similar projects or services; and such related divisions or subdivisions thereof as may be defined in chapters hereof and included hereunder with the approval of the President.

SEC. 2. The term "division of the industry" or "division" as used herein shall mean a branch of the industry which has been or may hereafter be defined in a particular chapter of this Code. The term "subdivision of the industry" or "subdivision" shall mean a defined section of a division.

SEC. 3. The term "member of the industry", as used herein, includes any individual or form of organization or enterprise engaged in any phase, or undertaking to perform any of the functions of the industry as defined in Section 1 hereof, either as an employer or on his own behalf, including also but without limitation, architects, engineers, contractors, and subcontractors.

SEC. 4. The term "member of the division" or "member of the subdivision" includes any member of the industry engaged in one of the divisions or subdivisions of the industry now or hereafter established.

SEC. 5. The term "employee", as used herein, shall include any person engaged in any phase of the industry, however compensated, but excluding members of the industry.

SEC. 6. The term "employer", as used herein, includes anyone by whom any such employee is compensated or employed.

SEC. 7. The terms "President", "Act", and "Administrator", as used herein, shall mean, respectively, the President of the United States, the National Industrial Recovery Act, and the Administrator of Title I of said Act.

SEC. 8. The term "effective date", as used herein, shall mean the thirtieth (30th) day after the approval of this Code by the President, provided that in respect of a particular division an earlier effective date may be specified in the Chapter applicable to such division.

SEC. 9. The term "sponsors of the Code" as used herein means the following national associations of members of the industry, which have applied for the approval of this Code and signified their assent thereto:

1. Construction League of the United States.
2. American Institute of Architects.
3. American Society of Civil Engineers.
4. Associated General Contractors of America.
5. International Society of Master Painters and Decorators, Inc.
6. Heating, Piping and Air Conditioning Contractors National Association.
7. Cement-Gun Contractors Association.
8. National Building Granite Quarries Association.
9. Contracting Plasterers International Association.
10. Tile and Mantel Contractors Association of America.
11. National Association of Master Plumbers of the U.S.
12. National Elevator Manufacturing Industry.
13. Roofing and Sheet Metal Industries Conference.
14. Mason Contractors Association of the U.S. and Canada.
15. American Road Builders Association.
16. National Association of Metal Furring and Lathing Contractors.
17. Asbestos Contractors National Association.
18. National Association of Building Trades Employers.

19. National Association of Builders Exchanges.

20. American Construction Council.

and such other national associations of members of the industry as shall in like fashion hereafter sponsor additional chapters of this Code.

SEC. 10. The term "this Code" as used herein shall mean and include, unless the context clearly indicates otherwise, all chapters from time to time included herein, together with any modifications or amendments thereto.

SEC. 11. Population, for purposes of this Code, shall be determined by reference to the 1930 Federal Census.

ARTICLE III—HOURS, WAGES, AND CONDITIONS OF EMPLOYMENT

SECTION 1. In each division or subdivision of the industry, as defined in the chapter incorporated in this Code relating thereto, truly representative associations or groups of employers and employees respectively concerned, after proper notice and hearing and as a result of bona fide collective bargaining, may establish by mutual agreement (when approved by the President as provided in Section 7 (b) of the Act), for a specifically defined region or locality the standards of hours of labor, rates of pay, and such other conditions of employment, relating to occupations or types of operations in such division or subdivision, as may be necessary to effectuate the policy of Title I of the Act. For the purposes of this Section, the entire United States may be defined as a region. The terms of such an agreement between the employers and employees of a division or subdivision of the industry shall not be binding upon the employers and employees of any other division or subdivision of the industry.

After the President has approved any such agreement arrived at within any such division or subdivision, and after proper notice of such approval, it shall be deemed prima facie unfair competition for any employer in such division or subdivision to fail to comply with the standards of maximum hours of labor, minimum rates of pay, or other conditions of employment so approved and prescribed by the President, in respect of the performance within the defined region or locality of the types of operations concerned; and the failure of such an employer to desist from such unfair competition after being given due notice and opportunity to be heard, shall constitute a violation of the requirements of this Code.

The Administrator shall establish one or more Boards for each division or subdivision of the industry concerned to investigate any complaints of unfair competition as defined in this Section. Each such Board shall consist of two representatives each of employers and employees of the division or subdivision affected, selected by the Administrator from nominations made by such employers and employees respectively in such manner as the Administrator may approve or prescribe, and an impartial chairman named by the Administrator from nominations made by the employer and employee representatives selected to the Board. Each Board shall give notice and opportunity to be heard to each complainant and respondent and thereafter notify said parties of its findings and report them to the Administrator, as a basis for appropriate action to en-

force the requirements of this Code. The provisions of this Section shall not be construed to limit the power of the President, in the absence of such a mutual agreement, to exercise any authority conferred upon him under Section 7 (c) of the Act.

SEC. 2. Where no applicable mutual agreement, as provided in Section 1 of this Article, shall have been approved, employers shall comply with the following provisions as to minimum rates of pay and maximum hours of labor.

A. No employee, excluding accounting, office, and clerical employees, shall be paid at less than the rate of forty (40) cents per hour, provided, however, that the provisions of this paragraph A shall not be construed as establishing a minimum rate of pay for other than common or unskilled labor; and provided further that such provisions shall not be construed to authorize reductions in existing rates of pay.

No accounting, office, or clerical employees shall be paid at less than the rate of \$15.00 per week in any city of over 500,000 population or in the immediate trade area of such city; \$14.50 per week in any city of between 250,000 and 500,000 population or in the immediate trade area of such city; \$14.00 per week in any city of between 2,500 and 250,000 population or in the immediate trade area of such city; and \$12.00 per week in towns of less than 2,500 population.

The foregoing provisions of this paragraph A establish a minimum rate of pay which shall apply, irrespective of whether an employee is actually compensated on a time rate, piecework, or other basis.

B. No employee shall be permitted to work in excess of forty (40) hours per week or in excess of eight (8) hours in any twenty-four (24) hour period, with the following exceptions and limitations:

1. On application of the interested parties and after approval of the National Construction Planning and Adjustment Board of Regional Boards established by it, an employee may be permitted to work forty-eight (48) hours in any one week when the following conditions obtain:

(a) On projects located at points so remote and inaccessible that camps or floating plants are necessary for the housing or boarding of a majority of the labor employed.

(b) On such remote projects, when working time has been lost because of inclement weather or unavoidable delays in any one week, it may be made up in the following four weeks.

(c) On projects in localities where a sufficient amount of qualified labor is not available in the immediate vicinity of the work.

2. The foregoing maximum hours of work shall not be construed as a minimum, either for a day or for a week, and if at any time in any locality truly representative groups of employees in a division or subdivision of the industry, through their chosen representatives, express by written request to their employer or employers a desire to share available work in such division or subdivision, the number of hours of work may be reduced by mutual agreement between such employees and their employer or employers. In the event of inability to arrive at an agreement which will not involve undue hardship on either employees or employers, then such difference, with the consent of all parties in interest, may be submitted to the National Construction Planning and Adjustment Board for

a decision. The National Board may require the Regional Boards to secure facts and full information relative to such dispute and submit the same to the National Board for its information.

It is not, however, the intent of this provision that any such reduction will be recommended by the National Board to be put into effect if it appears probable that undue hardship might be occasioned thereby to either employers or employees.

3. The following classes of employees are exempt:

(a) Employees engaged in professional, executive, or supervisory work.

(b) Employees in establishments employing not more than two (2) persons in towns of less than 2,500 population, which towns are not part of a larger trade area.

(c) Employees engaged in emergency work, involving breakdowns or protection of life or property.

(d) Watchmen.

(e) Other employees who may be exempted in chapters of this Code specifically applicable only to the divisions or subdivisions of the industry therein defined.

4. Accounting, clerical or office employees may be permitted to work not in excess of forty (40) hours per week averaged over a period of four consecutive weeks.

C. No employer shall knowingly permit any employee to work for a total number of hours in excess of the hours herein prescribed, whether employed by one or more employers.

SEC. 3. Where provisions concerning hours of labor or rates of pay have been established for specific projects, by competent governmental authority or agencies (whether Federal, State, or political subdivisions thereof) acting in accordance with law, any employer required to comply and complying with the provisions so established shall be relieved of compliance with any conflicting provisions of this Article or of any actions taken in accordance therewith.

Any employer required to comply and complying with the provisions of a valid labor agreement in force on the effective date shall be relieved to the extent of his legal obligations thereunder of compliance during the period of such agreement, with any conflicting provisions of this Article, or of any actions taken in accordance therewith.

SEC. 4. *Minimum age.*—No employer shall employ any person under the age of sixteen (16) years, or under the age of eighteen (18) years in any occupation hazardous in nature or dangerous to health.

SEC. 5. *Construction Planning and Adjustment Boards.*—There shall be established within thirty (30) days from the effective date of this Code, a National Construction Planning and Adjustment Board, and said Board shall consist of twenty-one (21) persons, ten of whom shall be selected by the Industrial Advisory Board of the National Recovery Administration from nominations of the Construction Code Authority and ten shall be selected by the Labor Advisory Board of the National Recovery Administration from nominations of the construction employee organizations, the selection in each case to be subject to the approval of the Administra-

tor, and one person to act as disinterested chairman to be selected by the President upon the recommendation of the Administrator.

The National Construction Planning and Adjustment Board shall have for its fundamental purpose the planning and the development of policies that embrace the broad spirit of cooperation and good will in the furtherance of all matters that relate to the promotion of better relations between employers and employees within the industry and the furtherance of other matters of their mutual interest. It shall have the authority upon its own motion to select technical advisers and seek the cooperation of all factors involved in the stabilization and promotion of the well-being of both employers and employees in the industry and shall have the authority to make such rules and regulations for its own conduct as it may deem necessary.

It shall, in its own discretion, following the submission by consent of all parties in interest of any difference within or between any divisions or subdivisions of the industry, give consideration and make determinations on all such differences as may arise relating to wages, hours of employment, and working conditions. The decisions of the National Construction Planning and Adjustment Board shall be final and binding on all parties in interest, except that in the event the representative of the Government, the disinterested chairman, shall dissent from the conclusion, the decision shall be held in abeyance until approval or disapproval has been given by the Administrator.

The National Construction Planning and Adjustment Board shall have the authority, and upon its own motion shall establish in properly defined areas, Regional Construction Planning and Adjustment Boards, and said Boards shall be composed of an equal number of members from employer groups and employee groups, and it is further provided that there shall be no disinterested or impartial chairmen of said Regional Boards, it being provided that such Boards shall select from their members a chairman and a secretary. The National Construction Planning and Adjustment Board shall upon its own motion submit to the Regional Boards such problems for study as may in the opinion of the National Board be necessary and such reports of the Regional Boards shall be submitted to the final examination of the National Board.

To these Regional Construction Planning and Adjustment Boards may be submitted matters from their respective areas in disputes having the same relationship as matters to be submitted to the National Board, and every effort on their part shall be made to reconcile such existing differences, with the requirement that their actions shall in all instances be submitted to the National Board for final action.

Nothing in this section shall be construed as preventing employers and employees in any division or subdivision of the industry, as defined in the chapter incorporated in this Code relating thereto, from submitting to the Boards provided for in Article III, Section 1, or other Boards similarly composed and selected for consideration and determination, differences that may arise relating to wages, hours of employment, and working conditions, subject to the approval of the Administrator. The findings of fact and determina-

tion of such Boards shall be submitted to the National Board for its information.

The cost of conducting the National and Regional Boards herein provided for, shall be borne by the Construction Code Authority, subject to a budget submitted to and approved by it, provided, however, that the cost of the services and the expenses of the members of said Boards, shall not be paid by such Authority.

ARTICLE IV—ADMINISTRATION

To further effectuate the policies of the Act and to administer this Code within the Industry and its divisions and subdivisions, there shall be established a Construction Code Authority, and Divisional Code Authorities, and other administrative agencies as hereinafter provided:

A. CONSTRUCTION CODE AUTHORITY

SECTION 1. The Construction Code Authority shall consist of one member selected from and appointed by each of the sponsors of this Code, enumerated in Article II, Section 9 hereof as sponsoring this Code as originally submitted to the President for his approval; except that the Associated General Contractors of America may appoint thereto not more than four (4) members, one of such members to be selected respectively from each of the following component membership groups of said organization: Building Construction, Highway Construction, Railroad Construction, Public Works, and other types of construction not heretofore specifically enumerated; together with not more than three nonvoting members to be appointed by the Administrator to act as his representatives. To the Construction Code Authority as so constituted and established there may be designated not more than one additional member in respect of each additional chapter hereafter incorporated herein, provided that no such additional member shall be selected by any association enumerated in Article II, Section 9 hereof. The method for the selection of each such additional member shall be described in the corresponding additional chapter. The term of such appointments shall not exceed two years, except that, in the event of code continuance beyond the limit now established by law, terms may be readjusted to insure overlapping tenures of office pursuant to a plan or method approved by the Administrator. Voting members are subject to replacement by the selecting agency with the approval of the Administrator.

SEC. 2. The Construction Code Authority, acting as a unit or through any designated committee or department created by it from its membership, shall have, in addition to any other powers or duties herein conferred upon it, the following powers and duties:

(a) It may establish rules and regulations for the conduct of its affairs; and may appoint such committees, agencies, and representatives, and delegate to them such of its powers and duties as it may deem necessary for the proper discharge of its functions hereunder.

(b) It shall be empowered to cooperate with the Administrator in making investigations and surveys concerning the functioning of this

Code, the observance of its provisions and other pertinent matters whether at the request of the Administrator or otherwise, and report its findings and recommendations to the Administrator.

(c) It shall collect from members of the industry and compile and furnish to the Administrator any reports and other information required under the Act. Except as may be required for the effective enforcement of the provisions of this Code the reports of individual members of the Industry required under this Code shall be confidential and only compiled summaries of such individual reports shall be furnished.

(d) In order to collect the information for the Administrator herein called for, it may require, either directly or through any Divisional Code Authority, the registration, in such manner as it may deem appropriate, of all construction work or services of or in excess of \$2,000 in value, and in order to defray the expenses of such registration and of the administration of this Code may apportion such expenses on the basis of the value of the work or services so registered, but in no case shall the charge be less than \$2.00. The proceeds derived therefrom shall be apportioned upon an equitable basis between the Construction Code Authority and such Divisional Code Authorities as shall cooperate in procuring the registration of such work or services.

(e) It may propose modifications of or amendments to the general provisions of this Code which, after submission to the Divisional Code Authorities affected thereby, may be recommended to the President for his approval, and upon such approval, following such notice and hearing as he may prescribe, shall have full force and effect as provisions hereof.

(f) It may exercise the foregoing powers and duties in any division of the industry for which no Divisional Code Authority shall have been established; and, if in its opinion the policies of the Act require, it may recommend to the Administrator that an additional chapter of this Code be established for any such division of the industry.

(g) Its members or authorized representatives may attend meetings of any Divisional Code Authority, and it may at any time make appropriate recommendations to the Administrator to insure the proper functioning or representative character of any such Divisional Code Authority.

(h) It may secure an equitable and proportionate payment of the expenses of its establishment, maintenance, and activities from members of the industry.

B. DIVISIONAL CODE AUTHORITIES

SECTION 1. There shall be established for each division of the industry a Divisional Code Authority which shall, within the limitations provided herein, administer within such division, this Code and the provisions of any chapter hereof applicable specifically to such division. The procedure for establishing each such Divisional Code Authority shall be defined in the chapter pertaining to that division of the industry. The nonvoting members appointed by the Administrator to the Construction Code Authority (or their proxies

appointed by the Administrator) may serve in like capacity with respect to any Divisional Code Authority.

SEC. 2. Each such Divisional Code Authority shall, in addition to any other powers and duties conferred upon it in the chapter applicable to its division, have the following powers and duties:

(a) It may establish rules and regulations for the conduct of its affairs and may appoint such committees, agencies, and representatives and delegate to them such of its powers and duties as it may deem necessary for the proper discharge of its functions hereunder.

(b) It shall cooperate with the Administrator and with the Construction Code Authority in making investigations as to the functioning and observance of any provisions of this Code, at its own instance or on complaint of any person affected, and shall collect from members of the industry and compile and furnish to the Administrator, and to the Construction Code Authority, any reports and other information required under the Act. Except as may be required for the effective enforcement of the provisions of this Code the reports of individual members of the division required shall be confidential and only compiled summaries of such individual reports shall be furnished.

(c) It shall study the provisions incorporated in this Code applicable to its own division, and the operation thereof, and after submission to the Construction Code Authority may make such recommendations to the Administrator as it deems desirable for modification or addition thereto. Such recommendations, upon approval of the Administrator after such notice and hearing as he may prescribe, shall become a part of this Code and have full force and effect as provisions hereof.

(d) It shall receive and so far as possible adjust all complaints as to trade practices between members of its division in the operation of the provisions of this Code applicable to its division.

(e) It may secure an equitable and proportionate payment of the expenses of its establishment, maintenance, and activities from members of its division of the industry.

C. REPRESENTATION AND MEMBERSHIP

SECTION 1. In order that the Construction Code Authority and the Divisional Code Authorities shall at all times be truly representative, respectively, of the industry and of the divisions, and in other respects comply with the provisions of the Act, the Administrator may provide such hearings as he may deem appropriate; and thereafter, if he shall find that the Construction Code Authority or any Divisional Code Authority, is not truly representative or does not in other respects comply with the provisions of the Act, he may require an appropriate modification in the method of selection of the Construction Code Authority, or of any Divisional Code Authority, as the case may be.

SEC. 2. The sponsors of this Code who participate in the selection of any Code Authority or administrative agency provided for herein, shall submit to the Administrator true copies of their Articles of Association or Incorporation, Constitution and By-Laws, and other pertinent rules and regulations and any amendments when made

thereto, together with such other information as to organization, membership, and activities as the Administrator may deem necessary.

In addition to the information required to be submitted by members of the industry or its divisions under this Code, there shall be furnished to government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act. Except as may be required for the effective enforcement of the provisions of this Code, the reports of individual members of the industry required under this Code shall be confidential and only compiled summaries of such individual reports shall be published.

Nothing contained in this Code shall constitute the members of the industry or the members of the Construction Code Authority or of a Divisional Code Authority, or any committee or agency thereof partners for any purpose. No member of the industry shall be liable in any manner to anyone for any act of any other member of the industry, or any agent or employee thereof pursuant to this Code. No member of such a Code Authority, committee, or agency shall be liable in any manner to anyone for any act of any other member, officer, agent, or employee of such Code Authority, committee, or agency. Nor shall any member of any such Code Authority, committee, or agency, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own wilful misfeasance or nonfeasance.

ARTICLE V—APPEALS

SECTION 1. The Construction Code Authority shall establish, under rules and regulations prescribed by and subject to the approval of the Administrator, a suitable agency to be known as the Construction Appeals Board, to consist of one architect, one professional engineer, three general contractors and four special contractors.

SEC. 2. The Construction Appeals Board shall hear and determine the appeals referred to in Section 3 of this Article and shall likewise be empowered to determine, in the event of a conflict between the provisions of the various chapters hereof, applicable to specific divisions or subdivisions of the industry, which of such chapter provisions shall govern.

SEC. 3. Any interested party shall have the right of complaint to the appropriate Divisional Code Authority established for any division of the industry, and of a prompt hearing and decision in respect of any decision, rule, regulation, order or finding made by such Authority or its committees or agencies, under such rules or regulations as may be prescribed therefor and the decision of said Authority thereon may be appealed by any interested party to the Construction Appeals Board.

SEC. 4. Any interested party shall have the right of appeal to the Administrator, under such rules and regulations as he may prescribe, in respect of any decision, rule, regulation, order or finding made by the Construction Code Authority or the Construction Appeals Board.

SEC. 5. No decision, rule, regulation, order or finding shall be made by any Code Authority or other administrative agency, excluding the Boards provided for in Article III hereof, provided for in or pursuant to this Code, whether made pursuant to the foregoing sections of this Article V or otherwise, of or in any dispute between employers and employees, or between groups of employees, including, in such last-named classes of disputes, any case or controversy whose determination would directly involve or affect any dispute between groups of employees as to the right to perform specific types of work or operations, including cases commonly known as trade jurisdictional disputes.

ARTICLE VI—ADJUSTMENTS

In the event that any member of the industry subject to this Code shall have contracted before June 16, 1933, to purchase goods, structures, or parts thereof at a fixed price for delivery after that date and prior to the expiration of this Code, it is equitable and promotive of the policies of the Act that an appropriate adjustment of said price be made to meet any increase in cost to the seller caused by the seller's having signed the President's Reemployment Agreement or having become bound by any code of fair competition approved by the President; provided, however, that in view of the fact that construction operations customarily involve the furnishing of various goods and structures, or parts thereof, by a continuous series of independent, long-term contracts and agreements at fixed prices between various parties, such as owners (including government departments), contractors, subcontractors, and others, such adjustments may be made contingent upon similar appropriate adjustments to be made by all other parties thus participating, from and including the initial vendor of such goods and structures or parts thereof to and including the owners of the works or structure upon which they are used.

ARTICLE VII—COMPETITIVE BIDDING PRACTICES

SECTION 1. (a) The term "competitive bidding" as used herein shall mean the submission at or before a definite predetermined time of comparable proposals by two or more invited persons to an awarding authority to execute a specific program of work, furnishing a definite service or supplying a material specifically required for a particular project at a stipulated price. This does not include furnishing quotations on standard products.

(b) The term "awarding authority" as used herein shall mean any member of the industry who may upon competitive bidding award contracts.

SEC. 2. (a) The practices commonly known as "bid peddling" or "bid shopping" are recognized as unfair and are prohibited. Bid peddling in effect means the offering by the bidder prior to the making of an award of a substitute bid or price lower than the one originally bid without a commensurate decrease in the requirements of the job. The correction of the abuses resulting from such practice is obtainable by regulation restricting or controlling bidders.

(b) Bid shopping in effect means the effort on the part of the awarding authority to induce a bidder prior to the making of the award to lower his original bid price without a commensurate decrease in the requirements of the job. The correction of the abuses resulting from such practice is obtainable by regulation restricting or controlling the awarding authority.

SEC. 3. (a) Since it is recognized that the preparation of a bid is a service involving an expense to the bidder and that the inviting of an unreasonable number of bids is an economic waste, the awarding authority shall not invite an unnecessary number of bids.

(b) Only a limited number of alternate proposals shall be required in connection with any bid, and no alternate proposal of a bidder shall be considered by the awarding authority, unless the privilege of alternate proposals is extended to all bidders.

SEC. 4. The awarding authority shall make available uniformly to all bidders, plans and/or specifications or other requisite information which shall be sufficiently complete to enable each bidder to prepare a definite bid in accordance with the regulations herein provided for. He shall prescribe terms of competition which shall insure parity of standing to all bidders.

SEC. 5. The awarding authority shall not invite bids from a bidder unless such bidder shall have demonstrated to the satisfaction of the awarding authority that he is competent technically and financially to perform the work, and the ability of a bidder to obtain a performance bond shall not be regarded as the sole test of such bidder's competency.

SEC. 6. An award if made shall be made at the bidder's original bid price. It is recognized that competition based solely on price is sometimes unfair and accordingly the awarding authority may make an award to a competitive bidder other than the lowest bidder provided the award is made at such competitor's original bid price.

SEC. 7. The awarding authority shall designate a specific hour and place for receiving competitive bids. All bids to be submitted by subcontractors shall be delivered to the contractor at least 24 hours prior to the time set for the receipt of the bid of said contractor by the awarding authority. Bids received after such time or from uninvited bidders shall be returned unopened. All bids shall be required to be signed by a duly authorized representative of the bidder and enclosed in a sealed envelope on the outside of which shall appear its identification as a bid for the particular job.

SEC. 8. The awarding authority shall not at any time prior to the specified time for the receipt of bids convey to any bidder information relating to the price or terms of any other bid in order to influence the price or terms of such bidder.

SEC. 9. There shall be no collusion between the awarding authority and any bidder, nor between the different bidders in the preparation of any bid. The awarding authority shall not use any bid which is so unduly low as to indicate an error or mistake in estimating without first giving the bidder the opportunity of demonstrating by cost sheets or other methods the correctness of the bid that he has submitted.

SEC. 10. The awarding authority shall make an award or reject all bids for the principal contract with the owner within twenty

(20) days after the stipulated time for the receiving of bids except where an extension of time has been requested from the bidders and has been consented to by two or more bidders. In the case of bids conditioned upon the award of a previous contract, each succeeding awarding authority shall make an award or reject all bids within thirty (30) days after the award of such previous contract except as to such bidders as shall agree to an extension of time. The right to reject any or all bids may be reserved by the awarding authority, and such rejection shall be made in writing. Where all bids are rejected, bids shall not be again invited or submitted for the mere purpose of obtaining a lower or revised price or prices for substantially the same work previous to the elapse of ninety (90) days from the date of such rejection, except there be a substantial change in the plans and/or specifications, or except there be evidence of collusion, or except there be such a marked difference between the bids submitted and the awarding authority's estimate as to the valuation of the work as would indicate to the awarding authority and his Code Authority the necessity of new bids in order to secure fair competition.

SEC. 11. Before making an award the awarding authority may require any bidder to name the subcontractors whom such bidder intends to employ for the various divisions of the work bid upon.

SEC. 12. The awarding authority shall not accept rebates, refunds, discounts, or other special allowances or services from a bidder unless included by the bidder in his original bid.

SEC. 13. The various divisions and subdivisions of the industry may provide in the chapters specifically applicable to such divisions or subdivisions that members of the division or subdivision shall not submit a competitive bid, as defined in Section 1 (a) of this Article, to an owner or any other person, corresponding to an awarding authority as herein defined unless such owner or other person agrees to comply with the regulations provided herein governing an awarding authority.

SEC. 14. In order to enforce the practice of fair competitive bidding, the Divisional Code Authorities shall provide, if no such method is provided in the chapter applicable to such division, a method satisfactory to the Construction Code Authority for checking bids submitted by members of such division either by designating a depository for the filing of duplicate bids or by some other acceptable method. The Construction Code Authority may require such changes in any such method as may be necessary to prevent conflict between the various methods which may be adopted by the various Divisional Code Authorities.

ARTICLE VIII—GENERAL

SECTION 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; no employee and no one seeking employment shall be required as a condition of

employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

SEC. 2. Employers shall not reclassify employees or duties of occupations performed by employees with the intent or for the purpose of defeating the purposes of the Act.

SEC. 3. No provisions of this Code shall supersede any State or Federal law imposing more stringent requirements on employers regulating the age of employees, wages, hours of work, or health, fire, or general working conditions than those contained in this Code.

SEC. 4. No provision of this Code shall be so construed or applied as to permit or promote a monopoly or monopolistic practice, or to eliminate or oppress or discriminate against small enterprises.

SEC. 5. Additional chapters to this Code may be submitted to the Construction Code Authority for submission by it for the approval of the President but nothing contained herein shall be construed to prevent any representative association or group from submitting any such chapter directly to the President for his approval, provided that the Construction Code Authority, if then established, shall be given an ample opportunity to consider and examine any such chapter prior to its submission to the President to the end that there may be proper coordination within the industry and between its various divisions and subdivisions. Upon approval by the President, such chapter shall become an integral part of this Code the same as if originally included herein, but any exceptions therein to the general provisions of this Code shall apply only to the members of the division, or subdivision of the industry to which such chapter pertains. No specific provisions of this Code applicable to its amendment or modification shall constitute a limitation upon any right to propose such amendments or modifications which may be conferred by the Act.

SEC. 6. This Code, and all the provisions thereof, and of any chapter thereof, are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of the Act and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code, or of any additional chapter thereof, or any conditions imposed by him upon such approval.

Approved Code No. 244.

Registry No. 1616-2-31.

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