



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE CLEAN ENERGY)
PROGRAM CUSTOMER ON-SITE RENEWABLE)
ENERGY (CORE) – REQUEST FOR EXTENSION)
OF COMPLETION TIMEFRAME FOR EXISTING)
COMMITMENT – NEW JERSEY NATIONAL)
GUARD TRAINING CENTER IN SEA GIRT –)
DEPARTMENT OF MILITARY AND VETERANS)
AFFAIRS (DMAVA))

ORDER

DOCKET NO. EO09070572

(SERVICE LIST ATTACHED)

BY THE BOARD:

By this Order, the Board of Public Utilities (“Board”) considers and renders its decision regarding a request of the New Jersey Department of Military and Veterans Affairs (“Petitioner”) for a second extension of its Customer On-site Renewable Energy (“CORE”) rebate commitment deadline in order to complete a solar project.¹

Background

On August 25, 2005, the State of New Jersey Department of Military and Veterans’ Affairs (“DMAVA” or “Petitioner”) submitted an application for a rebate for a solar installation. The solar array would be constructed over a parking lot at a New Jersey National Guard building, located

¹ The Board closed the CORE program to new private sector solar applications on December 20, 2007 and closed the CORE program to all public sector solar applications as of April 1, 2008. In the matter of a Request to Suspend the Acceptance and Processing of New Solar Applications in New Jersey’s Customer On-Site Renewable Energy (CORE) Rebate Program, Docket No. EO07100773 (Dec. 20, 2007) (“December 20th Order”). Honeywell’s 2009 compliance filing, which was approved by the Board in its 2009 Budget Order, also included a budget and program description for the Renewable Energy Program: Customer Sited (now called the Renewable Energy Incentive Program (“REIP”)). I/M/O Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for 2009-2012: 2009 Programs and Budgets: Compliance Filings, Dkt No. EO07030203 (January 8, 2009) (2009 Budget Order)

at the National Training Facility Headquarters at Sea Girt. On August 2, 2007, the CORE Program approved a rebate of \$866,000 for a 227 kW system for DMAVA. On July 17, 2008, a first extension was granted, based upon a determination that delays related to the public contracting process were responsible for the request and that significant progress had been made toward completion. That extension was set to expire on August 2, 2009.

In advance of the deadline, on July 6, 2009, the Petitioner submitted a letter to Honeywell International, the renewable energy market manager, requesting a second extension of time on the grounds that although the project was very near completion, an additional extension would prevent any possibility of missing the deadline. On July 17, 2009, the Market Managers denied the request for a second extension. Following that denial, the Program Coordinator referred this matter to Board Staff. On July 28, 2009, Petitioner filed additional supplemental information and documentation, including changes in design during construction which necessitated additional time to complete as well as an additional Department of Community Affairs (DCA) process.

The CORE Guidelines for Completion Deadlines and Extensions (“the Guidelines”) preclude both the CORE Program Manager and Board Staff from granting a second extension on the grounds Petitioner alleged. Such a waiver may be granted only by the Board. Therefore, Board Staff advised the Petitioner to submit its request to the Board for its consideration as a petition requesting a waiver of the CORE program guidelines.

On August 10, 2009, DMAVA filed “a formal petition” addressed to the Director of the Office of Clean Energy. The Board defines a petition as a “pleading filed to initiate a proceeding invoking the jurisdiction of the Board.” N.J.A.C. 14:1-4.1(a)1. Pursuant to N.J.A.C. 14:1-1.6(a), a duly filed formal petition is addressed to the Board Secretary. However, the Board takes note of N.J.A.C. 14:1-1.2, which provides that “[t]hese rules shall be liberally construed to . . . secure just and expeditious determination of issues properly before the Board.” Considered in conjunction with information provided in Petitioner’s letters of July 6, 2009 and July 28, 2009, this petition states a ground upon which relief may be granted and identifies the relief sought, both of which invoke the jurisdiction of the Board. Thus, in the interest of securing a just and expeditious determination of this matter involving an extension of the time to fulfill the qualifications for receipt of a CORE rebate, the Board accepts this petition as filed.

As noted above, the petition in this matter relates to a rebate under the CORE program, which was designed to support the sustained and orderly development of markets for distributed renewable electric generation in New Jersey. The program offered financial incentives to New Jersey public utility customers investing in eligible, on-site renewable electricity generation using photovoltaic, wind, biomass, and fuel cell systems. Rebates were offered to make renewable energy investments more cost-effective by offsetting a portion of the initial installation cost as well as a number of market support services, including inspections and the facilitation of registration for renewable energy credits. CORE rebates were not intended to cover the entire system cost; rebates were intended to reduce the installation cost in order to make cost-effective investments available for as wide an array of ratepayers as possible.

To be eligible for a CORE rebate, an applicant must be a ratepayer of an electric or natural gas utility regulated by the Board. The CORE program serves residential, commercial, institutional, and industrial market segments. The program is available to private and public (school, State, county, and municipal) customers in all rate classes.

The Guidelines state that all public projects over 10 kW in size will be given twelve calendar months, starting from the date on the rebate commitment letter, for project completion, which is defined as the date when the Program Manager receives the final rebate application. Customer On-site Renewable Energy (CORE) Program Update, 14 (Aug. 17, 2006). If the customer/contractor cannot complete the project within the initial twelve month period, that customer/contractor may apply for an extension. Ibid. Extension applications “must include detailed documentation regarding the reasons for delay.” Ibid.

The Guidelines state that the Program Manager will grant extensions when the applicant can document significant progress toward completion of the project and the delay was unavoidable and unforeseeable at the time of the rebate application. Id. at 13-14. In determining whether significant progress has been made, the Program Manager looks at a number of specific factors: whether physical construction has started at the customer’s site; whether irrevocable orders have been placed with manufacturers of the major items of equipment; whether construction permits have been approved; whether engineering and design work has started and progressed to a significant degree; and whether material has been received from the manufacturer (either on-site or in storage). Ibid. In addition to these factors, when the applicant is a public entity, the Program Manager will also consider “procurement (i.e. customer contracting) and/or related litigation delays.” Id. at 14. If granted, the initial extension would be for twelve calendar months. Ibid. Under the Guidelines, a public entity may receive a second extension in “cases where litigation related to public entity contract award can be documented.” Ibid. If granted, this second extension for the public entity applicant would be for six months. Ibid.

The CORE program experienced exponential program growth in the four years preceding its termination. In particular, the demand for rebates from public sector applicants increased so significantly that rebates for public sector projects were reduced. In light of then-existing funding concerns and the backlog of solar projects which existed, the policy on extensions was intended to prevent the reservation of CORE funding for solar projects that are unlikely to be completed at the expense of other projects that could be approved at lower rebate levels. REIP, which has replaced CORE as the NJCEP program for funding renewable energy projects sited at the customer’s location, has been designed to offer rebates at a significantly lower level than the former CORE rebates.

In the instant matter, Petitioner seeks a second extension primarily as a result of delays related to the public contracting process. A second extension application for any reason other than public contract litigation constitutes a request for a waiver of the Guidelines, which requires the Board to engage in a two pronged analysis before rendering its decision. See N.J.A.C. 14:1-1.2(b)(1). First, the Board determines if the requested waiver is in accord with the general purpose and intent of its Guidelines. Ibid. Second, the Board determines whether full compliance with the Guidelines would adversely affect the interest of the public. Ibid. The Board reviews Petitioner’s request as follows.

The Board determines whether Petitioner’s request is in accord with the general purpose and intent of the Guidelines. See N.J.A.C. 14:1-1.2(b)(1). The Guidelines expressly state that the Program Manager will grant initial extensions when the delay was unavoidable and unforeseeable at the time of the rebate application. In terms of general purpose, the Guidelines suggest that initial extensions are permissible where the delay was beyond the control of the applicant.

Here, Petitioner seeks a second extension as a result of unavoidable and unforeseen delays. Petitioner represents that the public contracting process required for selecting first a designer and then a contractor was more time-consuming than anticipated and that review by the DCA was triggered again by changes in design made after both the designer and contractor had been selected. Petitioner thus claims that the impact of the public contracting process upon this project resulted in extensive delays. Therefore, based upon Petitioner's representations, the Board views the cause for delay as unavoidable and unforeseen.

According to the Guidelines, initial extensions will be granted when the applicant can document significant progress toward completion. Petitioner has stated that that the project is "75% completed;" in support of that statement, Petitioner claims that the steel infrastructure is in place, that the PV panels are being installed, and that the Inverter is on site and "ready to activate." Petitioner represents that the loss of the rebate will leave it with no recourse but its own budgeted funds to complete payment of its contractor. Petitioner also explains that outside of the difficulties discussed above, construction with the contractor has proceeded satisfactorily to date. Petitioner has submitted some supporting documentation and these representations indicate substantial, good faith efforts to advance the Project toward completion.

In addition, the Board notes the two limitations on second extensions. First, second extensions are only available for public entities, such as Petitioner. Second, the Guidelines limit second extensions to documented instances of public contract litigation. The use of public contract litigation as a justification highlights the underlying purpose of the Guidelines, because it shows the intent to extend deadlines for public entities where the unforeseen delays are associated with the peculiarities of public contracting and procurement. In the instant matter, Petitioner's complex public project has been delayed in part for just that reason -- as a result of unforeseen delays in the public bidding process, which arose as Petitioner made significant progress toward project completion. Thus, based upon Petitioner's representations, the Board considers Petitioner's request for a second extension in accord with the purpose and intent of the Guidelines governing second extensions.

The Board also determines whether full compliance with the Guidelines would adversely affect the public interest. See N.J.A.C. 14:1-1.2(b)(1). Petitioner's project represents a step toward transforming otherwise unproductive areas of paving into solar energy resources. The solar project is grafted on to an existing parking lot, permitting it to be transformed from an area likely to radiate unproductive waste heat into a net generator of renewable energy. This use of parking lots is relatively novel in the State, particularly when the project includes, as this does, the capacity for electric vehicles to plug in and recharge their batteries. Given the number of parking lots in the State, this type of project has the potential to become a model for future projects seeking to transform significant portions of the State into sources of renewable energy generation. Unfortunately, without the CORE rebate, Petitioner has stated that paying its contractor for services already rendered would become a serious problem. Therefore, in this instance, the Board considers the rigid application of the Guidelines on second extensions contrary to the public interest, which would otherwise be well-served by the project.

Having reviewed the Petition and the facts presented by the Petitioner, the Board FINDS that the facts and circumstances alleged as to the cause for delay were unavoidable and unforeseeable. The Board also FINDS that the facts alleged show that Petitioner has made significant progress toward project completion. Furthermore, the Board FINDS that the facts presented indicate that the public bidding and procurement issues claimed by Petitioner are in accord with the general purpose and underlying intent of the Guidelines. In addition, the Board

FINDS that Petitioner's project, if completed, will provide a public benefit which may be not be realized without a CORE rebate.

The Board CONCLUDES that Petitioner's representations qualify it for a waiver of the Guidelines so as to allow for a second extension of the rebate commitment deadline as within time. The Board further CONCLUDES that any change to the facts represented by Petitioner may change the Board's final decision. Still, the Board remains mindful of the need to prevent the reservation of CORE funding for solar projects that are unlikely to be completed. Accordingly, the Board HEREBY APPROVES a rebate commitment extension to Petitioner for ninety days from the date of this Order.

The Board DIRECTS Board Staff to monitor Petitioner's progress toward completion of this project.

The effective date of this Order is as set forth below.

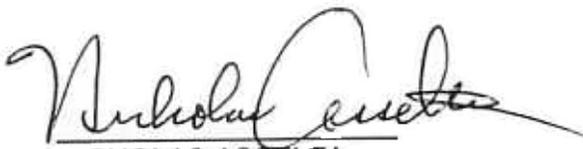
DATED: 8/19/09

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

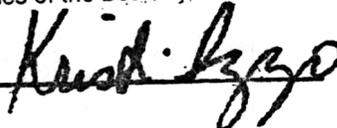

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities





Cover Letter for
Attachments 1 & 2

State of New Jersey
DEPARTMENT OF MILITARY AND VETERANS AFFAIRS
POST OFFICE BOX 340
TRENTON, NEW JERSEY 08625-0340

JON S. CORZINE
Governor
Commander-in-Chief

☆☆
GLENN K. RIETH
Major General
The Adjutant General

July 28, 2009

Mr. Michael Winka
Director, Office of Clean Energy
New Jersey Board of Public Utilities
44 South Clinton Avenue, PO Box 350
Trenton, New Jersey 08625-0350

SUBJECT: New Jersey National Guard Training Center, Sea Girt, New Jersey
NJBPU Rebate No. BPU-1768
Request for Second Extension

Dear Mr. Winka:

In response to the July 21, 2009 email I received from Mr. Scott Hunter of the NJBPU Office of Clean Energy, provided are additional details to my letter of July 6, 2009 presenting our request for a second extension for the solar power project at the New Jersey National Guard Training Center in Sea Girt, New Jersey.

The public contracting process covers this project; the design phase and the construction phase are two separate contracts, and the full process will take slightly more than 24 months to complete. We are pleased we are nearing completion and the system will be operational in just a few more weeks, in time for our scheduled dedication event with Governor Corzine on August 26, 2009.

Attached is a copy of the cover page of our design contract with Birdsall Engineering dated January 9, 2008. We needed to solicit bids for the design work and then award the contract. We could not begin the bid process for construction until the design was completed and approved by the Division of Community Affairs (DCA).

The construction contract was executed on September 23, 2008 and mobilized quickly and a preconstruction meeting was conducted on October 20, 2008.

Mr. Michael Winka

.2-

July 28, 2009

However, there were unforeseen delays with procurement of the steel frame members for the support structure. Once construction was underway, our design team also identified significant opportunities for design improvements which included enhanced foundations for the steel support columns which provided greater stability in the coastal high-wind zone for footings built in sand. Unfortunately, this redesign process required additional time to complete and undergo the DCA approval process.

The other factor that delayed our progress was a change in key personnel; the original Project Officer assigned to this project was subsequently deployed to Iraq and new staffing filled that role. While we have adjusted to this change, some additional time was required to keep the process moving forward.

Please let me know if you require any further details to approve our request. I can be reached at 609-530-7124. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'JH', with a large, stylized flourish extending from the end.

JOHN HASTINGS
Energy Manager
Plans and Programs

Attachment

(Attachment 1)



**AGREEMENT
BETWEEN
THE STATE OF NEW JERSEY
DEPARTMENT OF MILITARY & VETERANS AFFAIRS
AND AN ARCHITECTUAL & ENGINEERING FIRM
FOR FIXED FEE**



This **CONTRACT** made as of this ninth (9th) day of January, in the year Two Thousand Eight,

(9 January 2008)

BETWEEN

the Contracting Officer of the Department of Military and Veterans Affairs, acting for, and in the name and behalf of the State of New Jersey, hereinafter called the State, and

BIRDSALL ENGINEERING INC.
611 Industrial Way, West
Eatontown, New Jersey 07724

hereinafter called the ARCHITECT & ENGINEERING FIRM, (X) a corporation organized and existing under the State of New Jersey, () a partnership consisting of, () an individual trading as:

The Contracting Officer and the ARCHITECT & ENGINEERING FIRM agree as set forth below and as detailed in the attached Terms and Conditions of **CONTRACT** between the Contracting Officer and ARCHITECT & ENGINEERING FIRM.

PROJECT NAME: A/E SERVICES FOR THE PHOTOVOLTAIC SOLAR POWER SYSTEM & SUPPORT STRUCTURE
PROJECT NUMBER: SG 801

PROJECT LOCATION: Sea Girt National Guard Training Center
Sea Girt, New Jersey 08750

STATE ACCOUNT NUMBER: 08-100-067-3620-011-3620

ARCHITECT & ENGINEERING FIRM FEDERAL ID NUMBER ~~2225569505~~
OR STATE SOCIAL SECURITY NUMBER:

22-2577347

PERIOD OF SERVICE: UNTIL COMPLETION OF CONSTRUCTION OR OTHERWISE TERMINATED

08 JAN 09 2:11:53

IN WITNESS WHEREOF,

The parties to these presents have executed this CONTRACT in triplicate, each of which shall be deemed an original, in the year and day first above mentioned.

ATTEST:

Subscribed and sworn to before me this
25th day of January, 2008

Notary Public of:
State of New Jersey

My Commission Expires Jan 21, 2010

(Notary Seal)

Alycia Kay Nowicki
(Notary Public Signature)

ATTEST:

Subscribed and sworn to before me this
16th day of March, 2008

Notary Public of: New Jersey
My Commission Expires 20

ANNE L. AMATO

Notary Public of New Jersey

My Commission Expires March 10, 2009
(Notary Seal)

Anne L. Amato
(Notary Public Signature)

**ATTORNEY GENERAL
OF NEW JERSEY**

The aforementioned CONTRACT has been reviewed and approved as to form.

By Swati M. Kothari
(Signature) DEPUTY ATTORNEY GENERAL

SWATI M. KOTHARI
(Printed Name)

DATE: 3/6/08

[Signature]
(Signature) (Corporate Seal)
Birdsall Engineering, Inc.
(Name of Corporation)

Richard C. Maloney
(Printed Name of Authorized Representative)
Vice President
(Title)

611 Industrial Way West
(Address)
Eatontown, NJ 07724
(City) (State) (Zip Code)

**DEPARTMENT OF
MILITARY & VETERANS AFFAIRS
CONTRACTING OFFICER**

[Signature]
(Contracting Officer Signature)

EDWARD R SAIN, P.E.
(Printed Name)

Date: 6/16/08

**DIRECTOR, INSTALLATIONS DIVISION /
CONTRACTING OFFICER
STATE OF NEW JERSEY DEPARTMENT OF
MILITARY AND VETERANS AFFAIRS**
(Title)

(Attachment 2)

AGREEMENT

STATE OF NEW JERSEY
DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

STANDARD FORM OF AGREEMENT FOR CONSTRUCTION CONTRACTS

BETWEEN

State and Contractor

Where the Basis of Payment is a

STIPULATED SUM OVER \$37,500.00

This document has important legal considerations consultation with an attorney is encouraged

AGREEMENT

PROJECT #: SG801

PERMIT #: N/A

made this TWENTY THIRD day of SEPTEMBER in the year

TWO THOUSAND EIGHT

BETWEEN

the Contracting Officer of the Department of Military and Veterans Affairs, acting for, and in the name and behalf of the State of New Jersey, hereinafter called the State, and

(Insert name of individual representing Contractor) GERARD M. ALISEO - PRESIDENT

hereinafter called the Contractor, (X) a professional corporation organized and existing under the State of New Jersey, () as a partnership consisting of, or () an individual trading as: ("X"

Preceding and Insert name and address of Construction Firm, include county and zip)

LIGHTON INDUSTRIES, INC. 699 CROSS STREET, LAKEWOOD, NJ 08701
(732) 901-8625

The State and the Contractor agree as set forth below.

Project Name: PHOTOVOLTAIC SOLAR POWER SYSTEM & SUPPORT STRUCTURE INSTALLATION

Location: HJNC TRAINING CENTER, SEA GIRT, NJ

AGREEMENT

IN WITNESS WHEREOF.

The parties to these presents have executed this Agreement in three (3) counter-parts, each of which shall be deemed an original, in the year and day first above mentioned.

ATTEST:

Subscribed and sworn to before me this 29th day of Sept. 2008

Notary Public of: NEW JERSEY
My Commission Expires: ANNE L. AMATO
Notary Public of New Jersey
My Commission Expires March 10, 2011

(Notary Seal)

Anne L. Amato
(Notary Public Signature)

ANNE L. AMATO

ATTEST:

Subscribed and sworn to before me this

24 day of Sept. 2008

Notary Public of: New Jersey
My Commission Expires: March 7, 2011
Notary Public of New Jersey
Commission expires July 2, 2011
(Notary Seal)

Maria E. Jarwick
(Notary Public Signature)

(Corporation Seal)

Suzanne Musolf, Corp. Secy.
ATTORNEY GENERAL OF NEW JERSEY

The aforementioned agreement has been reviewed and approved as to form.

By Swati M. Kotnani
DEPUTY ATTORNEY GENERAL

Date: 9/29/08

[Signature]

(Contracting Officer Signature)

EDWARD R. SAIN

CONTRACTING OFFICER
STATE OF NEW JERSEY DEPARTMENT OF
MILITARY AND VETERANS AFFAIRS

[Signature]

LIGHTON INDUSTRIES, INC.

(Type Name of Firm)

PAUL ALISEO

(Name of Authorized Representative)

VICE

PRESIDENT

(Title)

699 CROSS STREET

(Address)

LAKEWOOD, NJ 08701

(City) State Zip Code

(732) 901-8625

Telephone number

Fax number

FEDERAL FUNDING CERTIFICATION

The following is applicable to Federally Supported Contracts only. I certify that there are appropriated funds sufficient to pay the Federal share of this Contract as Certified by the State Officer making same.

By
U.S.P. & F.O. For New Jersey

Date:

Transmission Report

Date/Time
Local ID 1
Local ID 2

10-23-2008
6095306880

02:01:37 p.m.

Transmit Header Text
Local Name 1
Local Name 2

NjdMava

10/23/08
2nd copy of NTP & Contract sent to Birdsall Engineering

This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"

Denise - 732-380-1701
Calo

STATE OF NEW JERSEY DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

NOTICE TO PROCEED

Account#: 08-100-067-3620-237-7110--100% FEDERAL Notice Date: 30 SEPTEMBER 2008
Permit #: N/A Contract Date: 23 SEPTEMBER 2008
Project #: SG801 Start Date: NO LATER THAN 17 OCTOBER 2008
Completion Date: 17 APRIL 2009
Vendor Identification #: 22-2307022

To:  LIGHTON INDUSTRIES, INC.
699 CROSS STREET
LAKEWOOD, NJ 08701
(732) 901-8625

Project: PHOTOVOLTAIC SOLAR POWER SYSTEM
& SUPPORT STRUCTURE INSTALLATION
Location: NJ NATIONAL TRAINING CENTER
SEA GIRT, NEW JERSEY

POINTS OF CONTACT

Contract Administrator: CLIFFORD SNEDEKER (609) 530-7120
Project Officer: JAMES LALLY (609) 530-6814
Construction Supervisor: LOUIS CICCANTI (609) 530-7168
Contracting Officer's Representative: N/A

Upon receipt of this Notice to Proceed and the Project Contract, you are directed to notify the Project Officer to coordinate a pre-construction meeting for proposed work schedule. The contractor is required to obtain all necessary permits prior to the start of work. Additionally, no work shall begin until all required shop submittals have been approved. Project completion shall be accomplished on, or before, the date noted above.

Submittals for payment shall be in accordance with the conditions of the Contract documents and shall be submitted through the Contract Administrator on the enclosed forms.

AWARDED BID #1 FOR THE SUM OF
\$2,380,000.00


EDWARD R. SAIN, P.E.
Director, Installations Division
Contracting Officer

Total Pages Scanned : 5

Total Pages Confirmed : 5

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	930	8562521401	02:00:04 p.m. 10-23-2008	00:01:01	5/5	1	EC	HS	CP26400

Abbreviations:
HS: Host send
HR: Host receive
WS: Waiting send

PL: Polled local
PR: Polled remote
MS: Mailbox save

MP: Mailbox print
CP: Completed
FA: Fail

TU: Terminated by user
TS: Terminated by system
RP: Report

G3: Group 3
EC: Error Correct

STATE OF NEW JERSEY
DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

NOTICE TO PROCEED

Account#: 08-100-067-3620-237-7110--100% FEDERAL Notice Date: 30 SEPTEMBER 2008
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To: LIGHTON INDUSTRIES, INC
699 CROSS STREET
LAKEWOOD, NJ 08701
(732) 901-8625

Project: PHOTOVOLTAIC SOLAR POWER SYSTEM
& SUPPORT STRUCTURE INSTALLATION
Location: NJ NATIONAL TRAINING CENTER
SEA GIRT, NEW JERSEY

POINTS OF CONTACT

Contract Administrator: CLIFFORD SNEDEKER (609) 530-7120
Project Officer: JAMES LALLY (609) 530-6814
Construction Supervisor: LOUIS CICCANTI (609) 530-7168
Contracting Officer's Representative: N/A

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Submittals for payment shall be in accordance with the conditions of the Contract documents and shall be submitted through the Contract Administrator on the enclosed forms.

AWARDED BID #1 FOR THE SUM OF
\$2,380,000.00


EDWARD R. SAIN, P.E.
Director, Installations Division
Contracting Officer

**STATE OF NEW JERSEY
DEPARTMENT OF MILITARY & VETERANS' AFFAIRS
101 EGGERT CROSSING ROAD, ID-CMB-CA
LAWRENCEVILLE, NEW JERSEY 08648
CHANGE ORDER**

TO:	Lighton Industries, Inc. 699 Cross Street Lakewood, NJ 08701	CURRENT DATE:	18 February 2009
		CHANGE ORDER #:	02
		STATE ACCT#:	N/A
		FEDERAL ACCT 100%:	08-100-067-3600-161-7110
PROJECT:	Photovoltaic Solar Power System & Support Structure Installation	PROJECT#:	SG801
		FEDERAL ID#:	22-2307022

LOCATION: NJNG Training Center – Sea Girt, NJ

You are directed to make the following change (s) in this contract. Per requested dated 17 February 2009.

-CREDIT FOR FOLLOWING-
Reduce contract amount for payment of A/E services
to Birdsall Engineering, Inc. to re-design structures.

Upon receipt of this change order, you are to sign where indicated at the bottom and return to this office. By signing you have indicated acceptance of this contract alteration. The compensation shown below is all inclusive for the described alteration and the right to future claims for payment and/or time shall be waived. A signed copy of this change order will be returned to your office. After completion of work, submit a state of New Jersey payment Voucher in accordance with contract payment breakdown instructions.

The original Contract Sum was	\$	2,380,000.00
Net change by previous Change Orders	\$	435,000.00
The Contract Sum prior to this Change Order was	\$	2,815,000.00
The Contract Sum will be (decreased) by this Change Order	\$	<u>-31,220.00</u>
The New Contract Sum including this Change Order will be	\$	2,783,780.00

The Contract Time will be unchanged

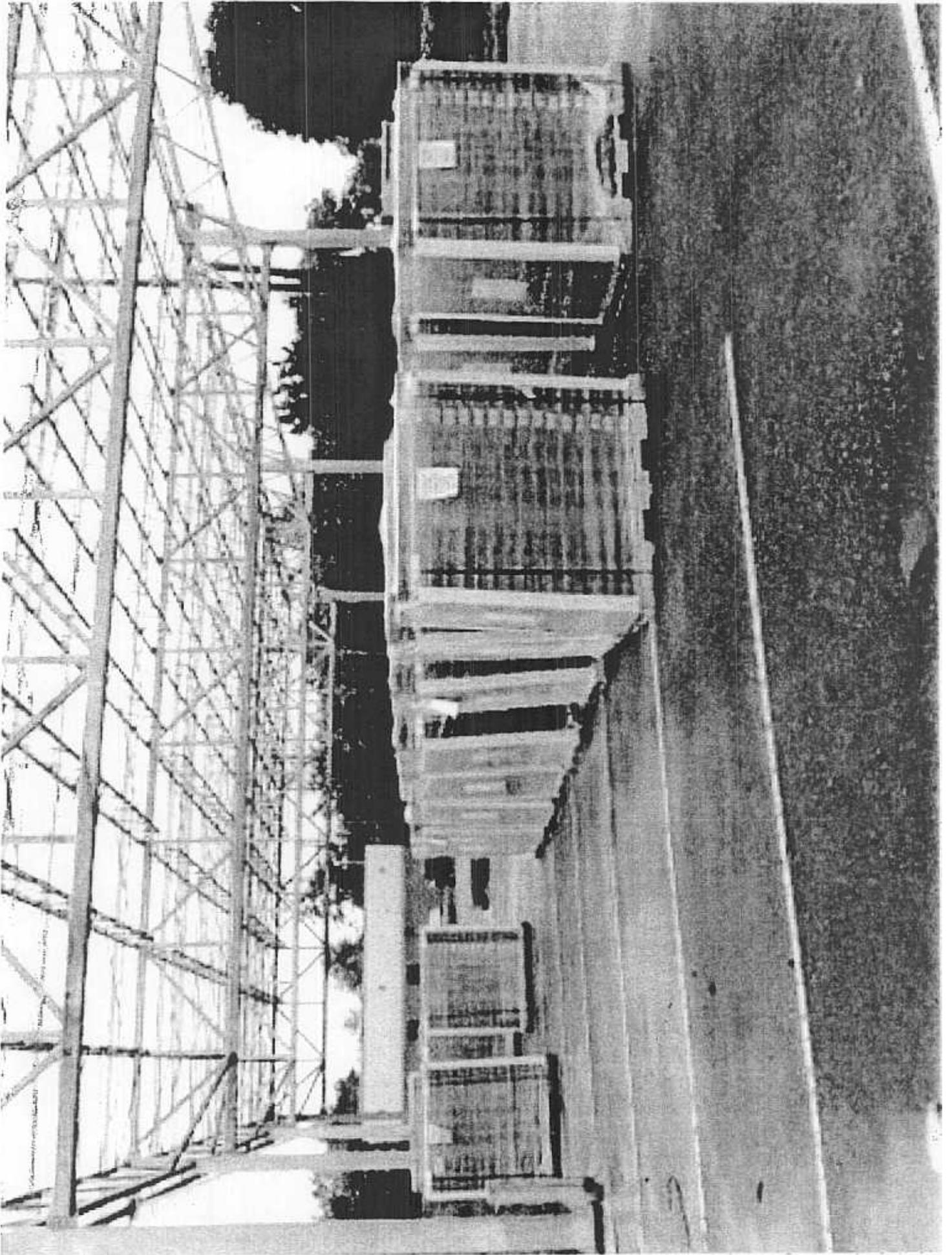
The Date of Completion is until 17 April 2009

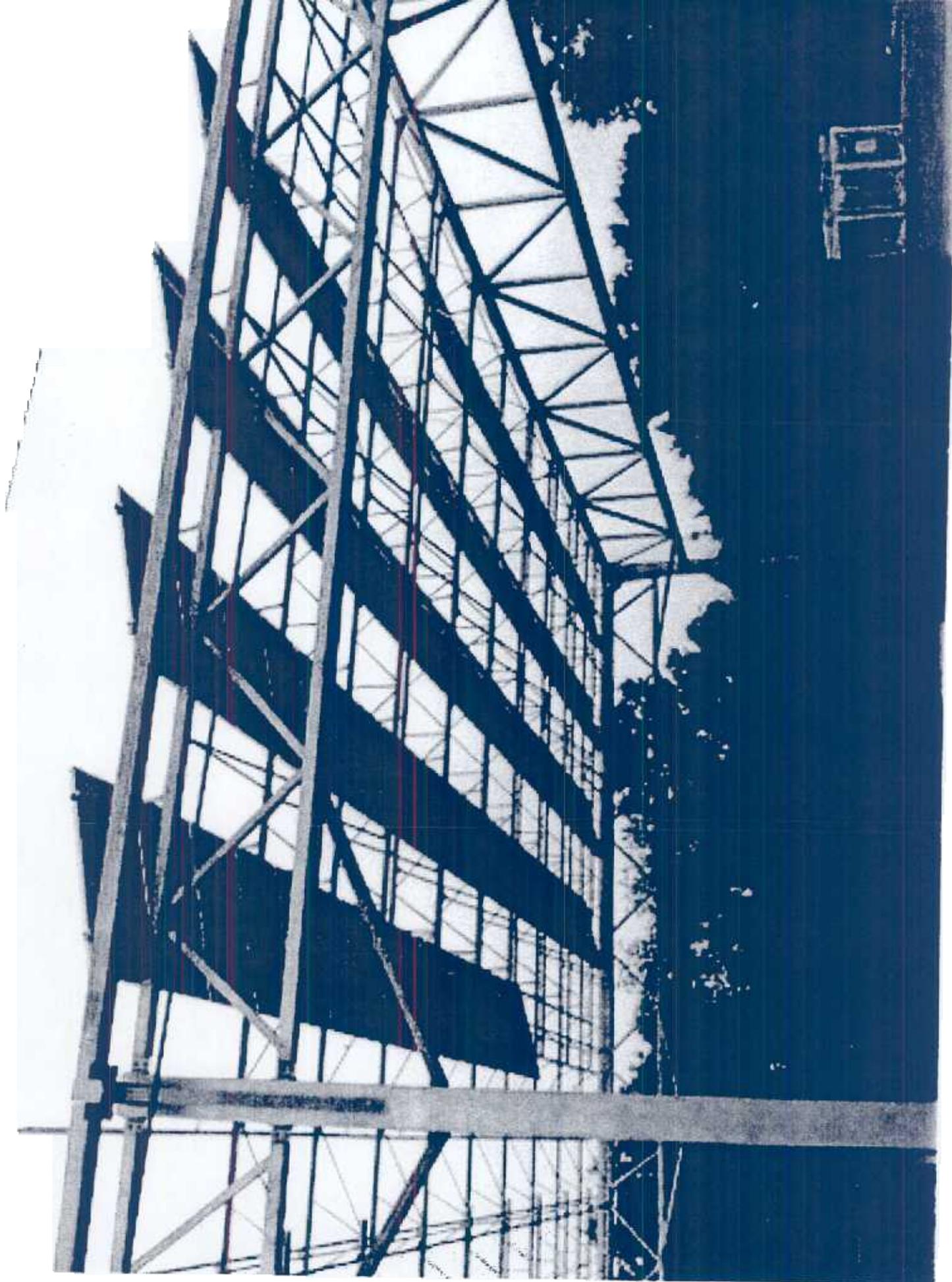
Office of Construction Supv. Signature	Vendor Signature	Contracting Officer Signature Approval
Date:	Date:	Date:

Vendor Copy
OCS Copy

Project Officer Copy









State of New Jersey
DEPARTMENT OF MILITARY AND VETERANS AFFAIRS
POST OFFICE BOX 340
TRENTON, NEW JERSEY 08625-0340

JON S. CORZINE
Governor
Commander-in-Chief

GLENN K. RIETH ☆ ☆
Major General
The Adjutant General

6 July 2009

Mr. Michael Winka, Director
New Jersey Board of Public Utilities
Office of Clean Energy
44 South Clinton Avenue, PO Box 350
Trenton, New Jersey 08625-0350

SUBJECT: New Jersey National Guard Training Center
Sea Girt, New Jersey, Rebate No. BPU-1768

Dear Mr. Winka

I am writing to document the progress the Department of Military and Veterans Affairs (DMAVA) Has made toward completion of our PV Project at the National Guard Training Center in Sea Girt, New Jersey, Rebate Number BPU-1768, and to request an extension of time to complete the project. Currently this project is seventy-five percent complete and although it may become complete by 2 August 2009 (Expiration Date for Rebate) I am requesting an extension.

Progress to date, and plans for completion, include:

- 1 Lighton Industries is under contract with the The Department of Military and Veterans Affairs to construct this project and have been proceeding satisfactory. They have complied with all DMAVA's inspections.
2. The steel infrastructure is all in place and the PV panels are being installed.
3. The Inverter is on site and waiting to be turned on.
4. 15 July 2009 will be DMAVA's official ribbon cutting ceremony.

Please let me know as soon as possible once DMAVA's extension of time has been approved

Sincerely,

John L. Hastings
Energy Manager
Facilities Management Bureau

Sea Girt Extension BPU

Attachment 4



State of New Jersey
DEPARTMENT OF MILITARY AND VETERANS AFFAIRS
POST OFFICE BOX 340
TRENTON, NEW JERSEY 08625-0340

JON S. CORZINE
Governor
Commander-in-Chief

August 10, 2009

☆☆
GLENN K. RIETH
Major General
The Adjutant General

Mr. Michael Winka
Director, Office of Clean Energy
New Jersey Board of Public Utilities
44 South Clinton Avenue, PO Box 350
Trenton, New Jersey 08625-0350

SUBJECT: N.J.A.C. 14:1-4 and 5
NJBPU Rebate No. BPU-1768
Requesting Board action on a complaint

Dear Mr. Winka

This correspondence is a formal petition from The New Jersey Department of Military and Veterans Affairs (NJDMAVA) to request Board action in accordance with N.J.A.C. 14:1-5.13.

- 1 The 24 month process in question for the Department to open for Public bid has to take in consideration the selection of qualified engineering companies that are capable of designing a photovoltaic solar energy electrical generator and also qualified contractors that can build such a project. Several companies competed for these bids and after much consideration Birdsall Engineering Inc. was selected for design because they were the low bidder and also for their experience with solar projects. A design contract was awarded on March 7, 2008. The completed design was finally approved by DCA in July 2008. The construction contract was awarded September 30, 2008. Contractors requested a re-design of the array. The re-design effort was paid for by the contractor but required re-submittal and approval by DCA. The operational date of the array is August 25, 2009. Birdsall was under contract to the State of New Jersey and the design process began. This process in itself can take months to complete and must be done according to rules and regulations of the State of New Jersey and approval by the Deputy Attorney General.
2. Lighton Industries, Inc. was selected to build said project after the design from Birdsall Engineering was approved. This is another lengthy bid process and must be approved by the same rules and regulations pertaining to contracts with the State of New Jersey. Once this contract was approved and the Notice to Proceed issued, Birdsall Engineering was the legal agent representing the best interest of the State of New Jersey. Any delays in procuring steel frame parts, building materials and DCA permits was and still is their responsibility.

Mr. Michael Winka

-2-

August 10, 2009

3. Our Project Officer/Contract Administrator Clifford Snedeker was mobilized with the New Jersey Army National Guard and deployed to Iraq. We are pleased with his safe return and are awaiting his return to work. Due to budgetary constraints in State government, we have no back-up personnel and have to do the best we can with whom we have employed.
4. The ribbon cutting ceremony by Governor Corzine is August 26, 2009.

Sincerely,

A handwritten signature in black ink, appearing to read "John Hastings", with a large, sweeping flourish extending to the right.

JOHN HASTINGS
Energy Manager
Plans and Programs